
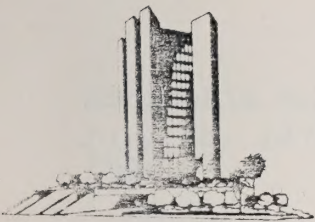


Long Beach



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CITY OF LONG BEACH

333 WEST OCEAN BOULEVARD

LONG BEACH, CALIFORNIA 90802

July 10, 1979

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HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
C a l i f o r n i a

UNIVERSITY OF CALIFORNIA

SUBJECT: Report and Recommendations of Blue Ribbon Charter
Revision Advisory Committee

We are pleased to submit for your consideration the report and recommendations of the Blue Ribbon Charter Revision Advisory Committee for revision of the Long Beach City Charter.

As you know, our citizens' committee was established pursuant to Resolution No. C-22422, adopted by the City Council on December 13, 1977. The authorizing resolution stated that the purpose of the committee was to study the City Charter, and to submit recommendations to the Charter Amendment Committee of the City Council for a complete revision and updating of the City Charter. Subsequently, when it became apparent that the extent of the revision would not allow the committee to complete its assignment by the originally scheduled deadline, you adopted Resolution No. C-22592 on August 22, 1978, extending the term of the committee for one year to August 31, 1979.

Randy Hamilton, Dean of the School of Public Administration at Golden Gate University was retained as consultant to the committee. His advice and counsel are gratefully acknowledged.

We are transmitting as attachments the following documents which represent the work of our committee and the fulfillment of our assignment.

- (1) Final Draft of Proposed Revision of the City Charter
- (2) An Executive Summary which describes the recommended Charter changes and the reasons for committee recommendations.
- (3) A list of existing Charter material which we concluded could be eliminated in a revised City Charter and placed in ordinances or administrative regulations.

We feel that our committee has achieved its goal of drafting a revised City Charter which will provide the legal framework for

Honorable Mayor and City Council
July 10, 1979
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more efficient and effective local government. We have endeavored to condense the size of the City Charter by eliminating obsolete sections, archaic language, and certain Charter provisions which could be handled in ordinances. Our basic intent was to simplify the City Charter and, wherever possible, frame it in lay language which would be more intelligible to the average citizen. However, there are some sections of the City Charter which, for legal reasons have been left intact except for minor editing. The majority of our recommendations involve streamlining and updating of the Charter as a document. In that regard, we availed ourselves of the National Municipal League's Model City Charter and other Charters as examples of modern, simplified charters.

We recognize that some of our recommendations may generate differences of opinion when the proposed Charter revision is considered at public hearings of the City Council's Charter Amendment Committee. Those recommendations are highlighted in the attached Executive Summary. In that connection, our committee recommends that the issue of whether to retain District Councilmanic elections or to restore the former electoral system be considered as a separate ballot measure apart from the overall Charter revisions.

I would like to acknowledge the dedication and conscientious performance of my present and former Blue Ribbon Committee members during the seventeen months of our deliberations. I would also like to express appreciation for the invaluable staff assistance of Robert C. Creighton, Assistant City Manager; Edward T. Bennett, Senior Deputy City Attorney; and Ree Bushey of the City Clerk's office, who served as recording secretary for the committee.

The members of the Blue Ribbon Committee stand ready to assist the City Council in any manner you may desire during the period when the Charter Amendment Committee will be conducting its public hearings on the proposed Charter revision. We would also be pleased to do whatever proves necessary to acquaint the public with our recommendations, in recognition of the critical importance of having the electorate fully informed about this proposed Charter revision prior to the June, 1980 election.

We believe that we are forwarding for your consideration a Charter revision document which reflects the best current public administrative and legal theory and practice. We sincerely trust that your Honorable Body and the electorate will find that you can support our recommendations.

Very truly yours,

Beach Vasey

JUDGE BEACH VASEY, Chairman
Blue Ribbon Charter Revision
Advisory Committee

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EXECUTIVE SUMMARY OF RECOMMENDATIONS
FOR CHARTER REVISION FROM BLUE RIBBON
CHARTER REVISION ADVISORY COMMITTEE

(1) ARTICLE I. INCORPORATION, ORGANIZATION AND POWERS

Comment: This article integrates provisions which appear in several articles of the present Charter. Most significant, in revised section 102, it reaffirms the City's commitment to the Council-Manager form of government, as a unanimous recommendation of the committee. The article provides for continuity between the existing and revised Charter in revised sections 107 and 108. The article also expands the City's powers in the area of intergovernmental relations to reflect the City's increased involvement and relations with other governmental jurisdictions.

(2) ARTICLE II. THE CITY COUNCIL

This article integrates provisions relating to the City Council now contained in separate articles of the existing Charter. While the language of this article has been edited for style and clarity, its substance is essentially the same as in the present Charter. In revised section 202, our committee has recommended the present method of having the Mayor elected by his fellow Councilmembers rather than by the electorate at large. The committee also concurred that the Mayor should serve for a two year term. Revised section 203, relating to salary of City Council members, has been modified to provide that changes in Councilmanic salaries may be approved by the electorate or by the City Council itself.

A proposed new section (209) has been added, affirming the principle of citizen participation.

(3) ARTICLE III. CITY MANAGER

Comment: The language of this article has been greatly condensed and simplified. At the suggestion of the City Manager, those portions of existing Charter sections 88 and 88a, dealing with removal of the City Manager before and after his first year of employment have been deleted, including the provision for a councilmanic hearing. The City Manager suggested that in his opinion such provisions need not be mandated under the Council-Manager form of government. The powers and duties of the City Manager, as set forth in revised section 302, are a simplified version of existing Charter section 90. The City Manager's right to suspend employees has been retained in section 302(b); and the obsolete and cumbersome procedure set forth in existing Charter section 92 has been eliminated.

(4) ARTICLE IV. CITY CLERK

Comment: The provisions of this revised article are essentially the same as contained in existing Charter section 93-97 inclusive, except for minor editing for purposes of improved style and clarity.

(5) ARTICLE V. OFFICERS AND EMPLOYEES

Comment: The definition of "Officers of the City" has been updated from the obsolete listing in the existing Charter. Listing of specific departments heads in existing section 28 has been replaced by a generalized reference to department heads in revised section 500. This article in revised section 504 also incorporates a provision for deferred compensation, as previously authorized by the electorate. Revised section 508 sets the term of all Charter mandated commissions at four years and transfers the appointing authority from the City Manager to the Mayor, as recommended by the City Manager.

(6) ARTICLE VI. CITY ATTORNEY

Comment: This article was revised on the basis of recommendations from the City Attorney. The primary changes, other than updating and simplification of language, are as follows:

- (a) A change in the language pertaining to the retention of outside counsel by the City. The present Charter in section 206 provides that "the City Council shall have control of all litigation of the City, and may employ other attorneys to assist the City Attorney". The new language in revised section 603 qualifies the City Council's authority in that respect as follows: "The City Council shall have control of all litigation of the City, to the extent that the relationship between attorney and client permits or authorizes such control by client; and at the request of the City Attorney may employ other attorneys to assist the City Attorney."
- (b) Eliminates the requirement in existing section 205 that all members of the City Attorney's office be confirmed by City Council. The committee felt that the confirmation of deputies and legal secretaries is a needless act on the part of the City Council and a waste of its time, since the City Council exercises budgetary control over the office of City Attorney.

- (c) Deletes existing Charter section 207 requiring the City Attorney's attendance at all Council meetings; and the requirement to render opinions when requested by the City Council or other City officers. The City Attorney apparently feels that such requirements are implicit in his duties as set forth in revised section 603. The requirements of existing Charter sections 208 and 209 have been incorporated in revised section 603 pertaining to the City Attorney's duties. The existing Charter section 210, providing for the City Attorney to have a secret service fund has been deleted at the suggestion of the City Attorney.

(7) ARTICLE VII. CITY PROSECUTOR

Comment: This article essentially retains the substance of existing Charter section 210a relating to the Office of City Prosecutor, though obsolete references in the existing Charter section have been eliminated. The language of this section has also been edited to improve its style and clarity. The only substantive change has been to eliminate the requirement for staff appointments to be confirmed by City Council. As in the case of other elected City officials (City Attorney and City Auditor), it is felt that the City Council's budgetary control precludes the need for routine councilmanic confirmation of deputies and legal secretaries. The City Prosecutor's allowance of secret service funds in the performance of his duties has been retained.

(8) ARTICLE VIII. CITY AUDITOR

Comment: The language of revised section 801 has been modified from existing section 132.100 to require that the City Auditor shall be a certified public accountant. The provision in the current Charter that the City Auditor may hold the professional designation of "Certified Internal Auditor" awarded by the Institute of Internal Auditors in lieu of being a C.P.A. has been deleted. The committee feels that the City Auditor must be a C.P.A., as is the current incumbent in that position.

The requirement for councilmanic confirmation of staff appointments has also been eliminated for the same reason as previously stated for City Attorney and City Prosecutor.

The primary point of difference between the committee and the City Auditor concerns the language of revised Section 803 pertaining to the duties of City Auditor. The committee concluded that the City Auditor should function as a financial

auditor in accordance with what it regarded as the seeming intent of the existing City Charter. In line with that thinking, the committee, provided that, in addition to annual financial audits, the City Auditor shall perform such other financial audits as are required by law, or are requested by the City Council.

The City Auditor feels, however, that his auditing responsibilities in a revised Charter should be expanded to allow him to conduct performance-type, operational audits. Consequently, he recommended that the City Auditor be allowed to conduct such audits as he deems advisable. The committee did not agree that the City Auditor should have unlimited authority to conduct any and all audits he deems essential, since the present City Charter does not appear to give him that unlimited authority. The committee felt that the City Auditor would be involving himself in operational matters within the purview of the City Manager, thereby placing himself in a position to be second-guessing the City Manager on operations for which the City Manager is responsible. The committee further concluded that the type of performance auditing recommended by the City Auditor could lead to needless conflicts between the City Manager and the City Auditor, without necessarily achieving positive results. The committee also questioned whether the City Auditor has the staff capability to conduct performance-type operational audits which are not necessarily in the financial field of the City Auditor's staff competence.

Revised sections 804 and 805 were modified on the basis of joint consultation between the City Auditor and the Director of Financial Management. The language of this article was also edited to improve its style and clarity.

(9) ARTICLE IX. RECREATION COMMISSION

Comment: The sections of this article has been substantially condensed and simplified to eliminate archaic language and obsolete provisions. The definition of "public recreation", contained in existing Charter section 202a was felt to be unnecessary and was deleted. Revised section 901, comparable to existing section 202b, has been condensed to eliminate redundant language. In addition, that section has been modified to provide that the four delegated members of the Recreation Commission (the City Manager, the Superintendent of Schools, City Councilperson and Board of Education member) may be represented at commission meetings by alternates in the event of absence of the delegated members. The alternates, who would have voting rights, would be the following: the

Assistant City Manager for the City Manager; an Assistant or Associate Superintendent for the Superintendent of Schools; an alternate Councilmember designated by the City Council and an alternate member designated by the Board of Education.

The references to the Director of Recreation have been eliminated, a change which is consistent with the deletion of similar references to department heads who serve under the City Manager. As noted elsewhere in this Executive Summary, it is not essential for the City Charter to be cluttered with unnecessary references to department head duties. The duties of the Recreation Commission are more clearly set forth in this revision.

The section dealing with termination of Joint Recreation Activities (revised section 903) has also been revised to provide that in the event of dissolution of the City-School District Coordinated Recreation Plan, appointments to the reduced commission would be made by the Mayor subject to Councilmanic confirmation. Otherwise, if the language of the existing Charter were to be retained, the appointment of five members would be made by the City Manager and one Councilmember, a most illogical procedure.

This article has also been revised to provide that the City Council by ordinance may establish a procedure and fee schedule for appeal of Recreation Commission actions to the City Council. The committee felt that decisions of the Recreation Commission should be appealable to the City Council in the same manner as are decisions of the Planning Commission.

This revised article also makes provision for technical recreation employees, to be placed in the classified Civil Service. The committee concurred with a joint Civil Service-Personnel Department recommendation that it is no longer advisable for all Recreation Department employees to be in the unclassified service.

(10) ARTICLE X. PLANNING COMMISSION

Comment: The principal change in this article pertains to existing Charter section 232, which provides that the Planning Commission appoints planning executives and employees subject to City Manager approval and councilmanic confirmation. Our committee felt that such appointments should be made by the City Manager rather than by the Commission, since the Planning Department comes under the administrative direction of the City Manager. We therefore deleted the language of the present Charter requiring Commission appointments and Councilmanic confirmations. Except for that change, the provisions of the article are essentially the same from a substantive standpoint, though the language has been condensed, simplified and updated.

(11) ARTICLE XI. CIVIL SERVICE

Comment: The revision of the Civil Service sections were developed jointly by the Civil Service Board and the retired Director of Personnel and Employee Relations. The language of existing Charter sections on Civil Service have been updated to reflect current conditions. There was considerable difference of opinion among our committee members as to whether sergeants and above in the Police Department and Captains and above in the Fire Department should be considered as supervisors and therefore included in the unclassified service. The committee, by a close vote, initially favored those employees being placed in the unclassified service; however, in a later meeting, this decision was reversed in another close vote. Subsequently, the committee, at a later meeting, adopted compromise language which would leave the City Council the discretionary authority to make such a determination rather than having the question mandated in the City Charter.

The committee also recommended that the veterans' preference provision be deleted from the existing Charter; and that appropriate measures be taken by the City Council to handle the question of veterans' preference in an ordinance or in Civil Service rules and regulations. The committee also recommended that existing Charter sections relating to the rights of employees to be reinstated to their positions following leave of absence for military service be deleted from the City Charter and placed in Civil Service regulations. There are a number of other existing Charter sections which the committee, with the concurrence of the Civil Service Board and the Personnel Director, agreed could be removed from the City Charter and placed in Civil Service regulations.

(12) ARTICLE XII. HARBOR DEPARTMENT

Comment: The major substantive changes in the Harbor sections of the City Charter are as follows:

- (a) In revised section 1202, the term of Harbor Commissioners has been changed from the existing Charter's six years to a proposed four year term. The committee felt that all commission appointments should be for a period of four years in the interest of uniformity and greater citizen participation.
- (b) Elimination of the section providing for adoption of commission rules, since that can be handled in an ordinance.

- (c) The insertion of a sub-section in revised section 1210, providing that surplus money may be transferred from the Harbor Revenue Fund to the Tideland Operating Fund for purposes of providing lifeguard services and maintaining Tideland park and beach areas outside of the Harbor District. The committee felt quite strongly that the Harbor Department should assume greater financial responsibility for Tideland expenses to assist the general City, particularly in view of the fact that revenues from Tideland oil funds will become a declining financial resource during the 1980's.

Apart from the changes noted above, the balance of changes in the Harbor sections of the Charter were changes of wording to improve clarity. The committee would like to have condensed this rather lengthy article; however, the committee deferred to the opinion of the Harbor Department's legal counsel, who advised that any major changes could adversely affect the department's status as a "regulated public utility"; and that language which has previously been tested in court should be retained.

(13) ARTICLE XIII. MANAGEMENT OF OIL PROPERTIES

Comment: The provision relating to appointment and duties of a director was condensed in the interest of consistency, with similar provisions in other articles. The committee agreed that there is no need to clutter up the Charter with departmental duty statements. Other than this modification, only minor editing changes were made in this article to improve style and clarity. The committee concurred with the City Attorney's advice that, in view of the relationship of these sections to adjudicated State law, as well as the City's role as Tidelands trustee, there should be no substantive change in these sections relating to management of oil properties.

(14) ARTICLE XIV. EDUCATION

Comment: Upon the advice of the City Attorney, the committee recommended retention of this article as now contained in the existing Charter. One minor change is suggested: the substitution of the words "public school system" for the words "School Department" in revised section 1400.

(15) ARTICLE XV. DEPARTMENT OF PUBLIC UTILITIES

Comment: The committee is recommending that the Gas and Water departments be consolidated in a unified Department of Public Utilities in the interest of greater efficiency, economy and elimination of duplication. As a companion recommendation, the committee is proposing the elimination of the autonomous Board of Water Commissioners, a change which is opposed by that Board.

The committee recognizes that there may have been sufficient justification for creation of an autonomous Water Board when that body was established nearly fifty years ago. Moreover, our recommendation for elimination of the Board of Water Commissioners is not intended as a reflection on the performance of members of the Water Board. We recognize that they have exercised their responsibilities in a creditable manner. However, we also appreciate the fact that conditions have changed markedly since the Board was established as an autonomous body almost fifty years ago. There may have been a need for an autonomous Water Board in 1931. However, in our opinion, that need no longer exists. We took into account that the fact that the City's other major public utility, the Gas Department, is very efficiently managed with the City Council rather than an independent board as the governing body. We listened to the arguments in favor of retaining an autonomous Water board, as advanced by Board members; however, we were not convinced by those arguments. We concluded that the operations of the Water Department are not nearly as complex or sensitive as those of the Harbor Department. Consequently, while we agreed that the Harbor Department should continue to be administered by an autonomous board, we did not feel that there is a comparable need with respect to the Water Department. We did suggest, however, that if it were subsequently found to be desirable, the City Council could appoint a committee which could be advisory to a consolidated Department of Public Utilities.

You will also note that in revised section 1502, we are recommending inclusion of a provision for continuation of existing Water Board agreements in the event that your Honorable Body and the electorate ultimately were to approve this authorized change.

(16) ARTICLE XVI. FRANCHISES

Comment: This article of the Charter has been greatly condensed and simplified to delete obsolete provisions which no longer are required to meet changed conditions. A major change in this article is the recommended elimination of the Bureau of Franchises and Public Utilities, a body comprised of the City Manager as Chairman and four City Councilmembers. The committee agrees with management's position that it is anachronistic under the Council-Manager form of government to retain a quasi-legislative body of Councilpersons headed by the City Manager who, for all other purposes, is accountable to the City Council. Our committee concurs with management's contention that the duties of the Bureau of Franchises can be handled by a standing committee of the City Council, an arrangement which makes for greater sense administratively.

(17) ARTICLE XVII. FINANCE

Comment: The committee concurred with recommendations from the Director of Financial Management for elimination of obsolete Charter sections and updating of language to reflect changed conditions and modes of operation. However, essential financial sections in the existing Charter have been retained.

(18) ARTICLE XVIII. CONTRACTS

Comment: The significant change in this article is our recommendation in revised section 1806 that the City Council be granted the discretionary authority to contract out with private firms for services now performed by classified City employees. You will note that in revised section 1806, our committee has not recommended an unlimited authority to contract out for private services. Recognizing the legitimate concern of classified City employees over this suggested change, we have qualified our recommendation by requiring a two-thirds (2/3) vote of the City Council and a four-fifths (4/5) vote of the Harbor Board to authorize this type of contract, supported by findings that the work or services can be performed by a private contractor as efficiently and effectively or at an estimated lower cost to the City than if they were performed by classified City employees. We feel that this qualifying language will protect City employees from what we regard as groundless fear on their part that the City Council will elect to contract out for services on a wholesale basis.

Our committee concluded that this proposed Charter change will provide the City Council with greater flexibility in reaching decisions as to whether work or services could be handled more economically, efficiently and promptly by City forces or by outside private contractors. Each situation would be evaluated by the City Council on its own merit. In summary, our committee felt that factors of efficiency and economy affecting the cost of government to the taxpayer must take priority over considerations of Civil Service employee protection, without in any way intending to minimize the importance of job security to public employees.

The committee also concurred with recommendations from the Director of Financial Management and City Engineer for the revision of obsolete Charter sections affecting contracts to reflect changed conditions and modes of operation. However, the essential bidding requirements of the existing City Charter have been retained.

(19) ARTICLE XIX. NOMINATIONS AND ELECTIONS

Comments: This article essentially retains the provisions of the existing City Charter insofar as nominations and elections are concerned, except for minor editing to clarify the language.

The significant recommendation of the committee with respect to this article concerns the method of election. The language of the draft Charter revision being submitted to City Council describes the existing district method of district elections. However, in an Appendix to the revised City Charter, we have included the language of alternate sections 1905, 1906 and 1908 which would have to replace existing Charter sections in the event that the City Council decides to place this issue on the ballot, as we have recommended.

Our committee felt that the electorate should be given an opportunity to vote on whether they desire to retain district elections, or return to the former system of district elections in the primary and City-wide elections in the general municipal election. The committee felt that sufficient time has passed since the adoption of district elections to allow the electorate time to evaluate the merits of district elections as compared to the former method of councilmanic election. The committee also took into account the fact that district elections were approved by just slightly over fifty (50%) percent of the votes cast. Consequently, the consensus was that, since nearly fifty (50%) percent of the voters had opposed district elections, the question should be reconsidered at the election called to consider Charter revision.

We are, therefore, recommending that your Honorable Body place this question on the ballot as a separate measure from the matter of general Charter revision. Recognizing that strong differences of opinion exist with respect to this issue, we feel that it should be considered on its own and not as a part of the totality of Charter revision recommendations.

(20) ARTICLE XX. INITIATIVE, REFERENDUM AND RECALL

Comments: This article is essentially the same as contained in the existing Charter, except for minor editing changes.

(21) ARTICLE XXI. RETIREMENT SYSTEM

Comments: This article is exactly the same as contained in the existing Charter.

(22) ARTICLE XXII. MISCELLANEOUS

Comments: Obsolete provisions in the miscellaneous article of the existing City Charter are recommended for deletion. Only those sections deemed essential by the City Attorney's office have been retained.

(23) OTHER RECOMMENDATIONS

- (a) Our committee recommended the deletion of existing Charter section 263 which requires a tax levy for support of the Municipal Band. While we recognize that the Municipal Band is a Long Beach institution which has been a credit to the City, we concluded that it was not a necessity to mandate a Band operation in the City Charter, particularly in a post-Proposition 13 period of reduced municipal revenues. We also took into account the fact that the City Council could continue to appropriate available funds for a Municipal Band operation, even though a separate tax levy is not mandated in the Charter.
- (b) Our committee concluded that the positions of City Attorney, City Prosecutor and City Auditor be retained as elective offices, as now provided for in the City Charter.
- (c) Our committee also recommended that the elected position of City Attorney and City Prosecutor remain as separate offices and not be consolidated.

CHARTER SECTIONS RECOMMENDED FOR DELETION AND
PLACEMENT IN ORDINANCES OR ADMINISTRATIVE REGULATIONS

- (1) ARTICLE V. Section 16, relating to what constitutes a councilmanic quorum and related provisions concerning the business of Council meetings.

Recommendation: Delete and place in an ordinance relating to the rules and procedure for meetings of the City Council.

- (2) ARTICLE V. Section 18, relating to the enacting clause of ordinances.

Recommendation: Delete and place in an ordinance relating to the rules and procedure for meetings of the City Council.

- (3) ARTICLE V. Section 27, relating to City Council's authority to grant extended leaves of absence.

Recommendation: Delete and place in Personnel Ordinance.

- (4) ARTICLE V. Section 37, relating to fees to be paid into City Treasury.

Recommendation: Delete and place in appropriate Administrative Regulation.

- (5) ARTICLE VIII. Section 85.1, relating to Mayor's authority to appoint assistants in the Office of the Mayor and City Council.

Recommendation: Delete and place in ordinance or administrative regulation. It was felt that this existing Charter section, in effect, duplicates the provisions of the section on the Legislative Department, incorporated in the revised Charter draft as section 207.

- (6) ARTICLE XI. Section 101, relating to Veterans Preference.

Recommendation: Delete and place in Civil Service Rules and Regulations.

- (7) ARTICLE XI. Section 101.5 and 101.6, relating to employees' rights to be reinstated in the classified Civil Service after having served in the military forces.

Recommendation: Delete and place in Civil Service Rules and Regulations.

- (8) ARTICLE XI. Section 102, relating to the Civil Service Board's authority, subject to City Council approval, to adopt, amend and enforce a code of rules and regulations for employment in the classified service.

Recommendation: Delete and, if necessary, place in Civil Service Rules and Regulations. This action, though voted on by the committee, may not be required, since the intent of existing Charter section 102 has been preserved in revised Charter section 1102, wherein it states under subsections (a) and (b) that the Civil Service Commission shall have the right to adopt, amend, investigate and enforce Civil Service rules and regulations.

- (9) ARTICLE XI. Section 103, relating to the role of the Chief Examiner in providing examinations and maintaining lists of eligibles.

Recommendation: Delete reference to Chief Examiner and place in Civil Service Rules and Regulations. Reference to examination process and list of eligibles is covered in subsections (c) and (e) of revised Charter section 1102 pertaining to powers and duties of Civil Service Commission.

- (10) ARTICLE XI. Section 104, relating to promotion of classified employees.

Recommendation: Delete and place in Civil Service Rules and Regulations.

- (11) ARTICLE XI. Section 105, relating to probationary period.

Recommendation: Delete and place in Civil Service Rules and Regulations.

- (12) ARTICLE XI. Section 106, relating to discharge and reduction.

Recommendation: First sentence of existing Charter section 106, plus suspension reference in existing section 107, has been retained in revised section 1104 as redrafted. Balance of 106 to be deleted and placed in Civil Service Rules and Regulations.

- (13) ARTICLE XI. Section 107, relating to appeal to the Board.

Recommendation: Delete and place in Civil Service Rules and Regulations, except for reference to suspension which is included in revised Section 1104.

- (14) ARTICLE XI. Section 113, relating to violations and penalties.

Recommendation: Delete and place in Civil Service Rules and Regulations. Revised section 1102, relating to powers and duties, gives the commission the right to enforce and remedy violations of commission rules.

- (15) ARTICLE XIII. Sections 128 - 131.6 inclusive, relating to the Department of Engineering and Building and Safety.

Recommendation: Delete and place in appropriate ordinance or administrative regulation, if necessary. The committee concurred with management's recommendation that it is not necessary to clutter the Charter with statements affecting the appointment of department heads who serve under the City Manager, their qualifications and/or duties.

- (16) ARTICLE XIV. Sections 133.100 - 135.100; 137.100 - 137.120; 138.100 - 141.100, relating to division heads of the Finance Department and their respective duties.

Recommendation: Delete and place in ordinance or administrative regulation, if necessary, for the same reasons described in item no. (13) above.

- (17) ARTICLE XV. Sections 154 - 186, relating to the Department of Public Safety, comprising Police, Fire, Health and Sanitary.

Recommendation: Delete and, if necessary, place in ordinance or administrative regulation for similar reasons described in item (13) above.

- (18) ARTICLE XVII. Sections 196 - 199, relating to appointment, qualifications and duties of the City Librarian.

Recommendation: Delete and, if necessary place in ordinance or administrative regulation for similar reasons described in item no. (13) above.

- (19) ARTICLE XVII. Sections 202c, 202d, and 202f, relating to Director of Recreation and recreation supervisors.

Recommendation: Delete and, if necessary, place in ordinance or administrative regulation for similar reasons described in item no. (13) above.

- (20) ARTICLE XVII. Section 202k, relating to quarterly and annual reports required of the Recreation Commission.

Recommendation: Delete and, if necessary, place in ordinance.

- (21) ARTICLE XIX. Sections 211 - 213, relating to the Director of Public Service, his general powers and duties.

Recommendation: Delete and, if necessary, place in an ordinance or administrative regulation for similar reasons described in item no. (13) above.

- (22) ARTICLE XXI. Section 227, relating to organization, ordinances and resolution of the Harbor Board.

Recommendation: Delete and place in Harbor ordinance or administrative regulation.

- (23) ARTICLE XXI. Section 229, relating to powers and duties of General Manager of Harbor Department.

Recommendation: Delete listing of specific duties which can be placed in a Harbor administrative regulation. The intent of this existing Charter section 229 has been retained in revised Charter section 1204(r), wherein it is stated:

"To confer upon and delegate to the Executive Director such powers and duties as the commission shall deem appropriate."

- (24) ARTICLE XXV. Section 277, relating to Application for Franchises.

Recommendation: Delete and place in an ordinance.

- (25) ARTICLE XXVI. Section 297, relating to Bond for Faithful Performance of Contracts.

Recommendation: Delete and place in an ordinance; and retain appropriate language in the suggested revision of existing section 298.

- (26) ARTICLE XXVIII. Section 315 relating to creation of Department of Oil Properties and duties of Director.

Recommendation: Retain essential provisions of existing Charter section 315 in revised Charter section 1300; however, delete those portions of existing Charter section 315 which can be placed in an ordinance.

LONG BEACH CITY CHARTER

T A B L E O F C O N T E N T S

ARTICLE I. INCORPORATION, ORGANIZATION AND POWERS

Section 100.	Name
Section 101.	Boundaries
Section 102.	Form of Government
Section 103.	Councilmanic Districts
Section 104.	Rights and Liabilities of the City
Section 105.	Ordinances, Codes and Other Regulations
Section 106.	Present Employees
Section 107.	Present Elected Officers and Members
Section 108.	Pending Actions and Proceedings
Section 109.	Powers
Section 110.	Intergovernmental Relations

ARTICLE II. CITY COUNCIL

Section 200.	Members and Terms
Section 201.	Eligibility
Section 202.	Mayor
Section 203.	Salary
Section 204.	Vacancies
Section 205.	Powers Vested in the City Council
Section 206.	City Council Organization, Meetings and Rules of Order
Section 207.	Legislative Department
Section 208.	City Council's Authority Over City Employees
Section 209.	Citizen Participation
Section 210.	Ordinances and Resolutions
Section 211.	Emergency Ordinances
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LONG BEACH CITY CHARTER

ARTICLE I. INCORPORATION, ORGANIZATION AND POWERS

Section 100. NAME.

The City of Long Beach, hereinafter called City, shall continue to be a municipal corporation under its present name, City of Long Beach.

Sec. 101. BOUNDARIES.

The boundaries of the City shall be as they now exist, or as they may be changed in the future.

Sec. 102. FORM OF GOVERNMENT.

The municipal government shall continue to be known as the Council-Manager form of government.

Sec. 103. COUNCILMANIC DISTRICTS.

The nine (9) Councilmanic Districts into which the City is divided for electoral purposes, intended to be approximately equal in population, shall continue in effect. Commencing the second quarter of 1980 and at intervals of five (5) years, or at any other time the City Council may direct, the Planning Commission shall ascertain the number of inhabitants in each Councilmanic District and report its findings to the City Council. If the report shows that the Councilmanic Districts are not approximately equal in number of inhabitants, the City Council shall, by ordinance, redistrict the City into nine (9) Councilmanic Districts, each having approximately an equal number of inhabitants.

Any territory hereafter annexed to the City shall become a part of the Councilmanic District or districts adjoining such annexed territory. The City Council shall by ordinance alter the boundaries of the affected district or districts.

Sec. 104. RIGHTS AND LIABILITIES OF THE CITY.

The City shall continue to own, possess, and control all rights and property of every kind and nature owned, possessed, or controlled by it at the time this Charter takes effect and shall be subject to all its legally enforceable debts, obligations, liabilities and contracts.

Sec. 105. ORDINANCES, CODES AND OTHER REGULATIONS.

All ordinances, codes, resolutions, rules, regulations and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until they shall have been duly repealed, amended, changed or superseded.

Sec. 106. PRESENT EMPLOYEES.

Subject to the provisions of this Charter, the present employees of the City shall continue to perform their respective duties until changes in their positions are made, or until reassigned, removed or replaced in the manner prescribed by this Charter, City ordinances or procedural regulations.

Sec. 107. PRESENT ELECTED OFFICERS AND MEMBERS OF COMMISSIONS.

All elected officers and members of commissions holding office when this Charter takes effect shall continue to hold

office thereafter until their respective terms of office shall expire and until their successors shall be elected or appointed and qualified. This section shall apply only to elected offices and commissions which are continued in existence under this Charter. The terms of the members of any existing commission shall be adjusted by resolution of the City Council, if necessary, to comply with the provisions of this Charter.

Sec. 108. PENDING ACTIONS AND PROCEEDINGS.

No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or anything herein contained.

Sec. 109. POWERS.

The City shall have all powers possible for a City to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. Specifically, but not by way of limitation, the City shall have the power to make and enforce all laws and regulations with respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted, or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the

Constitution of the State of California. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

Sec. 110. LICENSING POWER. (RESTATEMENT AND CONTINUATION BY RE-NUMBERING PRE-EXISTING CHARTER SEC. 5, ADOPTED NOVEMBER 6, 1973)

The City shall have the power to license for the purpose of revenue or regulation, or both, every kind of lawful business transacted in the City and fix the license tax therefore.

Sec. 111. INTERGOVERNMENTAL RELATIONS.

The City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, districts, states, or civil divisions or agencies thereof, or the United States or any agency thereof. The City may delegate the exercise of its powers or the performance of any of its functions to any city, county, district, state, civil division or agencies thereof, or the United States or any agency thereof. The City may contract for performance by its officers and employees of any county, state or federal powers, functions or duties authorized or required to be performed by any county, state or federal officers or employees within the territorial limits of the City.

ARTICLE II. CITY COUNCIL

Section 200. MEMBERS AND TERMS.

The City Council shall consist of nine (9) Council members elected to office in a manner provided in this Charter, one from each of the Councilmanic Districts into which the City has been divided. The term of office shall be four (4) years. Alternatively, and successively, five (5) four-year terms shall be filled at one general municipal election and four (4) four-year terms at the next such election, consistent with the sequence of terms of City Council members existing on the effective date hereof. The term of a City Council member shall commence on the first Tuesday of June following his or her election, and he or she shall serve until his or her successor qualifies. Any ties in voting shall be settled be the casting of lots under the supervision of, and in such manner and place as the City Clerk decides.

Each City Council member in office at the time this Charter takes effect shall continue in office until the end of the term for which he or she was elected or appointed subject to the right of the people to recall a City Council member from office as provided herein.

Sec. 201. ELIGIBILITY.

No person shall be eligible to hold the office of City Council member unless such person is a legally registered voter and resident of the Councilmanic District from which nominated for at least thirty (30) days immediately preceding the first day upon which candidates are permitted to file nominating petitions for such office with the City Clerk.

Sec. 202. MAYOR.

The City Council shall, at its organizational meeting, elect from among its members a Mayor and Vice-Mayor, each of whom shall serve for two (2) years. The Mayor shall preside at meetings of the City Council, shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law, but shall have no administrative duties. The Vice-Mayor shall act as Mayor during the absence or disability of the Mayor and if a vacancy occurs, shall become Mayor for the remainder of the unexpired two (2) year term.

Sec. 203. SALARY.

Salary for City Council members shall continue at the same rate as set by ordinance at the time this Charter takes effect. The City Council may annually, effective on January 1 of each calendar year, increase or decrease the salary paid its members. Any such increase or decrease shall be by ordinance and shall not exceed an amount equal to 5% for each calendar year from the operative date of the last adjustment of the salary in effect when the ordinance or amendment thereto is enacted. No ordinance increasing salary shall be enacted which provides for automatic future increase in salary.

Any amounts paid by City for health and welfare, and Federal Social Security benefits or reimbursement of actual, reasonable and necessary expenses shall not be included for purposes of determining salary under this section.

City Council members' salaries may also be increased or decreased by an affirmative vote of a majority of the voters voting on the proposition at any election.

Sec. 204. VACANCIES IN CITY COUNCIL.

Absence from five (5) consecutive regular meetings, unless excused by resolution of the City Council, shall operate to vacate the seat of any City Council member so absent.

Whenever a vacancy in the City Council shall occur, such vacancy shall be filled at a special election to be called for that purpose. A vacancy shall be deemed to have occurred upon the date of the adoption by the City Council of a resolution finding and determining that such vacancy has occurred. In the event a City Council member is recalled, the vacancy shall be deemed to have occurred upon the date the election results are declared by the City Council. Any City Council member so recalled shall continue to hold his office until his successor is duly elected and qualified.

The election to fill a vacancy shall be held in the district from which the City Council member is to be elected, and shall be called within sixty (60) days after the declaration of such vacancy by the City Council. Said election shall be held within one hundred twenty (120) days after the declaration of such vacancy, unless the same is declared within one hundred twenty (120) days of a primary nominating election provided for in this Charter, in which event such vacancy may be filled by the City Council by appointment. Such special election shall be held within such district in the manner to be provided by the City Council by resolution.

To be eligible to be appointed or elected to fill a vacancy in the City Council, a person must have been a legally registered voter and resident in the district where the vacancy occurs for at least thirty (30) days immediately preceding the date of

appointment or the first day upon which candidates are permitted to file nominating petitions for the office with the City Clerk.

No person appointed as a successor to serve during the remainder of a Councilmanic term in which a vacancy occurs shall be designated on any ballot or voter pamphlet as an incumbent, a member of the City Council, or other designation indicating incumbency, for purposes of the next primary and general elections for members of the City Council.

Sec. 205. POWERS VESTED IN THE CITY COUNCIL.

Except as otherwise provided in this Charter, all powers of the City shall be vested in the City Council.

Sec. 206. CITY COUNCIL ORGANIZATION, MEETINGS AND RULES OF ORDER.

The time, place and method of calling meetings and the rules of order for the conduct of proceedings by the City Council shall be as established by ordinance.

Sec. 207. LEGISLATIVE DEPARTMENT.

There is hereby created a Legislative Department which shall be under the direction and control of the City Council. This department shall consist of the City Council, the City Clerk, and all assistants, secretaries, stenographers and clerical help in the office of the City Clerk and such employees as may be deemed necessary to serve in the office of the Mayor and City Council to aid them in fulfilling their legislative duties in gathering, organizing and analyzing data and information relating to matters requiring legislative action.

Sec. 208. CITY COUNCIL'S AUTHORITY OVER CITY EMPLOYEES.

Neither the City Council, nor any of its committees or members shall dictate or attempt to dictate, either directly or indirectly, the appointment of any person to office or employment by the City Manager, or in any manner interfere with the City Manager, or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry, the City Council, its members and employees of the Legislative Department shall deal with the administrative service solely through the City Manager, and neither the City Council, its members and employees of the Legislative Department shall give orders to any of the subordinates of the City Manager, either publicly or privately.

Sec. 209. CITIZEN PARTICIPATION.

Subject to the rules governing the conduct of City Council meetings, any citizen, personally or through counsel, shall have the right to address the City Council or its standing committees on matters of public business at any meeting.

Sec. 210. ORDINANCES, RESOLUTIONS AND ORDERS.

Ordinances and resolutions are the formal acts of the City Council reduced to writing and passed under legal restrictions governing action thereon. Orders include all other acts which, being less formal in character, require only to be passed by the majority of the City Council present and spread upon the minutes.

No ordinance shall be placed upon its final passage upon the same day it has been introduced, except emergency measures as provided

in this Charter. Neither ordinance nor resolution shall be in full force and effect unless it shall have received the affirmative votes of not less than five (5) members of the City Council.

No ordinance passed by the City Council shall go into effect before the expiration of thirty (30) days from the time of its final passage, except when otherwise required by the general laws of the State of California, by the provisions of this Charter, or emergency ordinances.

Sec. 211. EMERGENCY ORDINANCES.

The City Council may, by vote of five (5) of its members, pass emergency ordinances for the immediate preservation of the public peace, health and safety, to take effect at the time indicated therein. Emergency ordinances shall contain a separate section in which the emergency is particularly set forth and defined. A separate roll call on the question of the emergency shall be taken. Ordinances appropriating money may be passed as emergency ordinances.

Sec. 212. POSTING ORDINANCES.

The City Clerk shall cause each ordinance to be posted in at least three (3) public places in the City unless publication is requested by the City Council or otherwise required by law.

ARTICLE III - CITY MANAGER

Section 300. SELECTION AND QUALIFICATIONS.

The City Council shall appoint a City Manager who shall be the chief administrative officer of the City. The City Manager shall be responsible for the administration of all departments except the City Attorney, City Auditor, City Prosecutor, Civil Service Department, Legislative Department and Harbor Department. The City Council shall appoint the person deemed best qualified on the basis of executive and administrative capabilities, with special reference to experience in, and knowledge of, accepted practices with respect to the duties of the office as set forth in this Charter. The City Manager shall be appointed for an indefinite period and cannot be removed from office except by a vote of five (5) members of the City Council.

Sec. 301. ASSISTANT CITY MANAGER.

The City Manager shall have the power to appoint, with the confirmation of the City Council, an Assistant City Manager, who shall be empowered to perform all duties of the City Manager in the event of the absence or disability of the City Manager and such other duties as the City Manager shall direct. The Assistant City Manager shall serve at the pleasure of the City Manager.

Sec. 302. POWERS AND DUTIES OF THE CITY MANAGER.

The City Manager shall have the following powers and duties:

(a) To direct and supervise the administration of all Manager-directed departments of the City.

(b) To appoint, suspend and remove all City employees in both the classified and unclassified service; except that for the classified service, such powers shall be pursuant to the Civil Service provisions of this Charter, Civil Service rules, regulations and ordinances.

(c) To see that all laws, ordinances, orders, resolutions, contracts and franchises are enforced and executed.

(d) To attend all City Council meetings or councilmanic committee meetings; and to have the right to participate in the discussion without vote.

(e) To prepare and submit the annual budget; and to keep the City Council fully advised as to the financial condition and needs of the City, including the filing of an annual financial report.

(f) To submit such reports as the City Council may require concerning the operations of Manager-directed departments, and to recommend to City Council the adoption of measures deemed advisable.

(g) To perform such other duties as are specified in the Charter, by law or required by City Council.

Sec. 303. VACANCY.

Whenever a vacancy occurs in the office of the City Manager, the City Council shall proceed immediately to appoint a City Manager. Until a City Manager is appointed and has assumed the duties of the office, the Assistant City Manager shall be designated as Acting City Manager. He shall perform all of the duties of City

Manager and be vested with all the powers of City Manager as set forth in this Charter. The Assistant City Manager shall continue in the position of Acting City Manager until a new City Manager has been appointed and has assumed the duties of that office.

ARTICLE IV - CITY CLERK

Section 400. APPOINTMENT.

The City Council shall appoint a City Clerk who shall serve at the pleasure of the City Council.

Sec. 401. POWERS AND DUTIES.

The City Clerk or a duly authorized representative shall:

(a) Attend all meetings of the City Council and be responsible for the recording and maintaining of a full and accurate record of all of the proceedings of the City Council showing aye and no votes in all matters voted upon by the City Council.

(b) Maintain separate records, in which shall be set forth respectively all ordinances and resolutions, with the certificate of the City Clerk annexed to each document stating that said document is the original or a correct copy; and with respect to an ordinance, stating that said ordinance has been posted or published in accordance with this Charter. All of said records shall be properly indexed and open to public inspection.

(c) Maintain separate records for which an index shall be included of all written contracts and official bonds.

(d) Be the custodian of the Seal of the City.

(e) Administer oaths or affirmations and take affidavits pertaining to the affairs and business of the City; and certify copies of official records.

(f) Conduct all City elections.

(g) Except as herein provided, act as Clerk of any

commission of the City, or any committee if so designated by the City Council; keep full and accurate records of their proceedings; keep full and accurate records of membership and impending vacancies on all commissions, advisory committees and similar agencies.

(h) Perform such other duties as may be prescribed by the City Council.

Sec. 402. ASSISTANTS.

The City Clerk shall appoint such assistants and other staff necessary to perform the duties of the office.

ARTICLE V - OFFICERS AND EMPLOYEES.

Section 500. OFFICERS OF THE CITY.

The officers of the City shall be:

Nine members of the City Council

City Attorney

City Auditor

City Prosecutor

City Manager

Assistant City Manager

City Clerk

Five members of the Civil Service Commission

Five members of the Harbor Commission

Seven members of the Planning Commission

Nine members of the Recreation Commission

All department heads and other persons who in the exercise of their duties perform governmental functions of the City

Officers created by general state law, City ordinance or resolution

Sec. 501. ADMINISTRATIVE DEPARTMENTS.

The City Council may establish by ordinance departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies. The City Council may consolidate departments or divisions of departments provided that no department headed by an elective officer shall be consolidated with or subordinated to any other department or any division of any other department.

The City Council may provide by resolution for the number and titles of all City officers and employees.

Sec. 502. RESIDENCE.

Unless expressly provided in this Charter to the contrary, no person shall be eligible to nomination for election to any office who at the time of his or her nomination and election is not a legally registered voter of the City, and shall not have been a bona fide resident of the City or territory legally annexed thereto, for at least thirty (30) days immediately preceding the first day upon which candidates are permitted to file nominating petitions for such office with the City Clerk.

No person shall be eligible for appointment to any membership on any commission or committee who, at the time of his or her appointment, is not a legally registered voter of this City, and shall not have been a bona fide resident of the City or territory legally annexed thereto, for at least thirty (30) days immediately preceding the date of his or her appointment.

No person shall be eligible for either election or appointment to any office or to any membership on any commission or committee, or for appointment as an assistant, deputy, clerk, or other employee of any officer or commission, or to appointment to any position of employment whatsoever in the service of the City, who on the date of his or her election or appointment, shall be in litigation against the City.

All elective officers and all members of commissions or committees, must be bona fide residents of the City and maintain

their respective places of abode within its corporate limits at all times during which they hold such office, or are members of any such commission or committee. The term, "places of abode", as used herein, shall mean not only the legal or technical residence or domicile, but also actual abode in fact.

Any elective officer, member of a commission or committee, upon his or her failure to comply with and abide by the requirements as to residence and place of abode as hereinbefore set forth, shall be thereby immediately disqualified from holding such office or membership. The tenure of such officer or member shall be immediately terminated.

Sec. 503. SALARY OF OFFICERS AND EMPLOYEES.

Each officer and each employee shall receive such compensation for services as may be prescribed by resolution of the City Council or duly fixed by resolution of the Commission having jurisdiction under this Charter. The salaries or compensation proposed to be fixed by such Commission shall be subject to the prior approval of the City Council by resolution.

Time and method of payment of salaries of all officers and employees, including those whose salary is set by an authority other than the City Council, shall be prescribed by the City Council. Frequency of payment shall be not less than twice each calendar month.

Sec. 504. DEFERRED COMPENSATION.

Notwithstanding any other provision of this Charter, the City may establish a deferred compensation plan in accordance with applicable State and Federal laws and regulations. Officers and

employees who enter into an agreement with the City under such a deferred compensation plan shall be deemed to have been compensated pursuant to Section 503 of this Charter.

Sec. 505. HOURS OF OFFICERS AND EMPLOYEES.

All elective and appointive officials, their assistants, deputies and clerks, and other employees of the City shall devote their entire time during business hours to the duties of their respective offices, or employment. The City Attorney, City Prosecutor, City Auditor, City Manager and Executive Director of the Harbor Department shall not engage in any other business or practice during their respective tenure of office or employment. The members of the City Council and members of any commission or committee are specifically exempted from the provisions of this section. The provisions of this section shall not be applicable to professional or technical assistants temporarily employed by the City or an autonomous commission to assist or advise any City departments. Any ordinance adopted by the City Council regulating the employment of officers and employees of the City outside business hours shall be applicable to, and binding upon, officers and employees of all City Departments, including autonomous departments.

Sec. 506. TERM OF OFFICE.

All officers elected under this Charter shall take office on the first Tuesday of June after their election and shall hold office until their successors are elected and qualified. The provisions of this section shall not apply to the members of the Board of Education.

Sec. 507. VACANCIES IN NON-COUNCILMANIC ELECTIVE OFFICES.

In the event of a vacancy for any reason in any elective office, except City Council members, the vacancy shall be filled for the unexpired term by the City Council unless otherwise expressly provided in this Charter.

No person shall be eligible for appointment to a vacancy in any elective office who at the time of such appointment is not a legally registered voter of this City and shall not have been a resident of the City for at least thirty (30) days immediately preceding such appointment.

If a person elected or appointed to any office shall fail to qualify within ten (10) days after receipt of his certificate of election or notice of appointment, the office shall be declared vacant by the City Council, and shall be filled as if there were a vacancy.

Sec. 508. TERMS OF COMMISSION MEMBERS.

The term of office of members of the Commissions set forth in this Charter shall be four (4) years, beginning with the first Monday after the first day of July following their respective appointments, and until their successors are appointed and take office. The Mayor in making appointments to each such Commission, shall stagger the terms of the Commission members so as to provide a continuity of experienced members on each Commission. No person shall serve more than two terms on any one Commission. Serving two years or more of any unexpired term shall be counted as service of one term on such Commission.

Sec. 509. VACANCIES ON COMMISSIONS.

At the expiration of the term of each member of the Commissions established by this Charter, the Mayor shall appoint a successor, subject to confirmation of the City Council. Should a vacancy occur for any reason other than by expiration of a term, the Mayor, subject to confirmation of the City Council, shall appoint a successor to fill such vacancy for the unexpired term. Membership on the Recreation Commission and the filling of vacancies thereon shall be as set forth in Article IX hereof.

Sec. 510. REMOVAL OF COMMISSION MEMBERS.

The City Council may remove any member of a Charter mandated Commission at any time upon stating in writing, the reasons for such removal and allowing the member an opportunity to be heard by the City Council.

Sec. 511. APPOINTMENT OF RELATIVES VOID.

No officer, commission or member of any Commission, of this City shall recommend the appointment of, appoint, vote for or elect to any office, position or employment, in any department of the City government, any person related by consanguinity or connected by marriage with such officer or such member or with any member of such commission. A breach of this section shall be cause for removal of any such officer, commission or member of such commission.

ARTICLE VI - CITY ATTORNEY

Sec. 600. DEPARTMENT OF LAW.

The Department of Law shall consist of the City Attorney, and such employees as the City Council may provide for in the budget.

Sec. 601. QUALIFICATION AND TERM OF OFFICE OF THE CITY ATTORNEY.

The City Attorney shall be elected by the qualified electors of the City, and shall hold office for four (4) years, and until his successor shall have been elected and qualified. He must be qualified to practice in all the courts of the State of California, and must have been so qualified for at least five (5) years immediately preceding the first day upon which candidates for the office of the City Attorney are permitted to file nominating petitions for such office with the City Clerk.

Sec. 602. APPOINTMENTS BY THE CITY ATTORNEY.

The City Attorney shall appoint all members of the Department of Law, for whose acts he shall be responsible. Such appointees shall serve at the pleasure of the City Attorney. All assistants and deputies of the City Attorney, at the time of their appointment, must have been qualified to practice in all courts of the State of California for one year immediately preceding the date of their appointment.

Sec. 603. POWERS AND DUTIES OF THE CITY ATTORNEY.

The City Attorney shall have the following powers and duties:

(a) To be the sole and exclusive legal advisor of the

City, its commissions, committees, officers and employees with reference to all of their functions, powers and duties under this Charter, State and Federal law;

(b) To draft all ordinances, contracts, and other legal documents;

(c) To attend to all suits, matters and proceedings in in which the City may be legally interested;

(d) To defend all suits for damages instituted against officers and employees and former officers and employees for acts performed by them in furtherance of their duty while in the employ of the City;

(e) To approve in writing the form of all bonds required by the City and all contracts before the same are entered into on behalf of the City;

(f) To investigate and enforce on behalf of the City all provisions of this Charter, of the general law applicable to municipal corporations, and of the ordinances of the City, in all courts in the State of California, except criminal cases.

The City Council shall have control of all litigation of the City, to the extent that the relationship between attorney and client permits or authorizes such control by the client; and at the request of the City Attorney, may employ other attorneys to assist the City Attorney.

Sec. 604. VACANCY IN THE OFFICE OF THE CITY ATTORNEY.

In the event of a vacancy in the office of the City Attorney, for any reason, the City Council shall designate an

Assistant City Attorney or Deputy City Attorney, who shall become the Acting City Attorney and shall serve in that position until the City Council appoints a successor for the unexpired balance of the term. Any person serving as Acting City Attorney must possess the qualifications prescribed for the City Attorney.

ARTICLE VII - CITY PROSECUTOR

Section 700. DEPARTMENT OF THE CITY PROSECUTOR.

The Department of the City Prosecutor shall consist of the City Prosecutor and such employees as the City Council may provide for in the budget.

Sec. 701. QUALIFICATION AND TERM OF OFFICE OF THE CITY PROSECUTOR.

The City Prosecutor shall be elected by the qualified electors of the City and shall hold office for four (4) years, and until his successor shall have been elected and qualified. He must be qualified to practice in all the courts of the State of California and must have been so qualified at least five (5) years immediately preceding the first day upon which candidates for the Office of City Prosecutor are permitted to file nominating petitions for such office with the City Clerk.

Sec. 702. APPOINTMENTS BY THE CITY PROSECUTOR.

The City Prosecutor shall appoint all members of the Department of the City Prosecutor for whose acts he shall be responsible. Such appointees shall serve at the pleasure of the City Prosecutor. All deputies of the City Prosecutor must, at the time of their appointment, have been, for one (1) year immediately preceding the date of their appointment, qualified to practice in all of the courts of the State of California.

Sec. 703. POWERS AND DUTIES OF THE CITY PROSECUTOR.

The powers and duties of the City Prosecutor shall be as follows:

(a) The City Prosecutor shall institute, attend and conduct, on behalf of the people, all criminal cases arising upon violations of Charter provisions or City ordinances, in the court of original jurisdiction, and on appeal.

(b) The City Prosecutor shall draw complaints in such cases, and prosecute all recognizances and bail bonds forfeited in said cases. He shall prosecute all actions for the recovery of fines, penalties and forfeitures and other money accruing to the City under penal statutes or ordinances.

(c) Whenever it shall be authorized by the laws of this State, the City Prosecutor shall prosecute any or all misdemeanor offenses arising upon violation of the laws of the State and appeals arising therefrom. He shall draw complaints for misdemeanors committed against the laws of this State, prosecute all recognizances and bail bonds forfeited in such misdemeanor cases and prosecute all actions for the recovery of fines, penalties and forfeitures accruing to the City or the County of Los Angeles.

(d) If any person held in custody and charged with having committed a criminal offense against the Charter provisions or City ordinances, or with having committed a misdemeanor or other offense in the City against State law applies for a writ of habeas corpus, a copy of the application for such writ must be served upon the City Prosecutor at such times and in such manner as may be provided by such law. It shall be the duty of the City Prosecutor to conduct all proceedings relating to the application for or hearing upon such writ on behalf of the people. In all matters of habeas corpus in which the constitutionality

of any law or ordinance has been raised, and in all appeals in which the constitutionality of any law or ordinance has been raised, the City Prosecutor must immediately notify the City Attorney thereof. The City Attorney may in his discretion become associated with the City Prosecutor in any such action or proceeding and have charge of such litigation.

(e) Subject to approval of the City Council, the City Prosecutor shall be allowed such secret service funds as necessary to perform the duties set forth herein; and may employ special investigators in connection therewith.

(f) The City Prosecutor shall prosecute, attend and conduct on behalf of the City Manager or other appointing authorities at their request, all hearings before the Civil Service Commission.

(g) The City Prosecutor shall draft penal ordinances and shall render opinions relative to penal ordinances upon the request of the City Council, City Manager and department heads.

Sec. 704. VACANCY IN THE OFFICE OF THE CITY PROSECUTOR.

In the event of a vacancy in the office of the City Prosecutor, for any reason, the City Council shall designate an Assistant City Prosecutor or Deputy City Prosecutor, who shall become the Acting City Prosecutor and shall serve in that position until the City Council appoints a successor for the unexpired balance of the term. Any person serving as Acting City Prosecutor must possess the qualifications prescribed for the City Prosecutor.

ARTICLE VIII - CITY AUDITOR

Section 800. OFFICE OF THE CITY AUDITOR.

The office of the City Auditor shall consist of the City Auditor and such employees as the City Council may provide for in the budget.

Sec. 801. QUALIFICATION AND TERM OF OFFICE.

The City Auditor shall be elected by the qualified electors of the City and shall hold office for four (4) years, and until a successor has been elected and qualified. To qualify for the office of City Auditor, a candidate shall have been a certified public accountant for a period of five (5) or more years on the date of election as City Auditor. On the date of election, the City Auditor shall have a certified public accountant license to practice in the State of California and shall maintain such license during the term of office.

Sec. 802. APPOINTMENTS BY THE CITY AUDITOR.

The City Auditor shall appoint all employees in his office, for whose acts he shall be responsible. Such appointees shall serve at the pleasure of the City Auditor.

Sec. 803. DUTIES OF THE CITY AUDITOR.

The City Auditor shall be the general auditor of the City and all its departments, commissions, offices and agencies. The City Auditor shall perform or cause to be performed, audits of the financial operations of the City and all its departments,

commissions, offices and agencies at least once annually. The City Auditor shall perform such other financial audits as are required by law, or as are requested by the City Council. Audits shall be performed in accordance with generally accepted professional auditing standards and procedures. The City Auditor shall shall verify the cash in the City Treasury at least once a quarter and shall make a written report thereof to the City Council. Within the time provided by law, the City Auditor shall calculate the property tax rate and certify it to the City Council.

Sec. 804. DISBURSEMENTS AUDIT.

The City Auditor shall regularly review all systems and procedures for the disbursement of City funds and all its departments, commissions, offices and agencies and shall require such controls as deemed necessary to insure that such disbursements are made in accordance with applicable laws, regulations and policies. As evidence of this regular review, the City Auditor shall sign or cause to be affixed his or her facsimile signature to each check or warrant. If the City Auditor objects to a disbursement, the objection may be overruled by a majority vote of the membership of the City Council or by such other independent commission or agency of the City having appropriate jurisdiction. The provisions of this or any other section shall not preclude the authorization and use of imprest cash funds to effect economies in the processing of nominal City expenditures, subject only to advance approval by the City Auditor of procedures, amount and general purpose of such funds.

Sec. 805. RECEIPTS AUDIT.

The City Auditor shall regularly review all systems and procedures relating to the receipt of funds by the City and all its departments, commissions, offices and agencies and shall require such controls as deemed necessary to insure that such receipts are properly deposited on a timely basis in the City Treasury.

Sec. 806. COPIES OF REPORTS AND CONTRACTS.

A certified copy of every contract in which the City or any of its commissions is a party shall be filed with the City Auditor within ten (10) days after execution. The City Auditor shall be furnished a copy of all reports of a financial nature prepared by any department, commission, office or agency of the City. In the performance of his or her duties, the City Auditor shall have the right of immediate access to all financial records of the City.

Sec. 807. VACANCY IN THE OFFICE OF THE CITY AUDITOR.

In the event of a vacancy in the office of the City Auditor for any reason, the City Council shall designate an assistant as Acting City Auditor who shall serve in that position until the City Council appoints a successor for the unexpired balance of the term. The City Council shall act as expeditiously as possible to appoint a successor having the qualifications prescribed herein.

ARTICLE IX - RECREATION COMMISSION

Section 900. CREATION OF RECREATION COMMISSION.

There is hereby created a Recreation Commission.

Sec. 901. MEMBERSHIP AND TERMS OF RECREATION COMMISSION.

The nine (9) member Recreation Commission shall consist of the City Manager, the Superintendent of Schools, a member of the City Council, and a member of the Board of Education. Subject to confirmation of the City Council, those four (4) designated members shall appoint five (5) other members of the Recreation Commission, who shall not hold an elective office during their four (4) year term on the Commission. In the event a vacancy should occur on the Commission for any reason, the four (4) designated members shall fill the vacancy of the appointed member only for the unexpired term.

The City Manager may delegate the Assistant City Manager, the Superintendent of Schools may delegate an assistant or associate superintendent, and the City Council and Board of Education may delegate one of their members to act as alternate members at meetings of the Commission during the absence of the designated members. Such alternate members shall exercise the full powers of the absent member.

Sec. 902. POWERS AND DUTIES OF THE RECREATION COMMISSION.

The Recreation Commission shall have the following powers and duties:

- (a) Recommend to City Manager and City Council the

acquisition or abandonment of lands, waterways, buildings or other facilities for public recreation.

(b) Exercise control over the operation of public recreation functions under the jurisdiction of the City-School District Coordinated Recreation Plan.

(c) Approve plans for improvement of lands for public recreation.

(d) Approve plans for the construction or improvement of buildings or other facilities to be used for public recreation.

(e) Establish policy for issuance of permits and the negotiation and execution of leases and contracts.

(f) Establish fees for public recreation programs and use of recreation facilities.

Sec. 903. TERMINATION OF JOINT RECREATION ACTIVITIES.

Should it be determined by either the unanimous vote of the Board of Education, or the unanimous vote of the City Council, or of both, that it is advisable to discontinue the coordinated plan of playground and recreation and supervision and administration, as in this Article provided, then written notice of such decision shall be given to the Board or the City Council and one (1) year thereafter such plan shall be discontinued. In that event, the foregoing provisions of this Article shall remain in full force and effect, except that Section 901 shall be superseded by the following language: The Recreation Commission shall be comprised of seven (7) members appointed by the Mayor and confirmed by the City Council. Vacancies shall be filled in the same manner for the unexpired term.

Sec. 904. APPEAL TO CITY COUNCIL.

The City Council shall by ordinance establish a procedure and fee schedule for appeal of Commission actions to the City Council. The City Council shall have the power on any such appeal to affirm, modify, or overrule the decision of the Commission.

Sec. 905. RECREATION DEPARTMENT EMPLOYEES.

On the effective date of this Charter, all employees in the Recreation Department, including those who are engaged in technical recreation work, who are not now under civil service, shall become a part of the City's civil service system, either as unclassified or classified employees, without competitive examinations and without first having been certified to an eligible list for such position. All employees eligible for the classified service shall serve the probationary period established by the Civil Service Commission for their respective positions. The Civil Service Commission shall immediately proceed to establish classifications in the classified service for those employees whose present positions do not have comparable existing positions in the classified service.

Sec. 906. PLAYGROUND AND PUBLIC RECREATION FUND.

The City Council shall establish a "Playground and Public Recreation Fund." There shall be deposited to this and expended from this fund all fees or monies received by the Recreation Commission, including the proceeds from all gifts, legacies, or bequests or other sources managed or controlled by the Recreation Commission and derived by it in connection with the operation of the public recreation activities and facilities under its

jurisdiction. All monies in said fund shall be used for the uses and purposes of public recreation, and not otherwise, and if not used during any current year shall accumulate in said "Playground and Public Recreation Fund."

Sec. 907. PUBLIC RECREATION TAX LEVY (RESTATEMENT AND CONTINUATION BY RENUMBERING PRE-EXISTING CHARTER SEC. 202h, ADOPTED FEBRUARY 26, 1929),

The City Council shall annually levy and collect on all the taxable property in the City of Long Beach for the purposes of creating a special fund to be designated as the "Playground and Public Recreation Fund" at least five cents (5¢) on each One Hundred Dollars (\$100.00) of the value on all real and personal property of the City, as assessed by the City for City purposes, and, in addition thereto, shall have power to appropriate such additional funds as it may deem necessary and proper. Said fund shall be exclusively maintained and used to meet the legal demands and expenditures of the Board made for the purposes of public recreation.

ARTICLE X - PLANNING COMMISSION

Section 1000. CREATION OF PLANNING COMMISSION.

A Planning Commission is hereby created.

Sec. 1001. ORGANIZATION.

The Planning Commission shall be composed of seven (7) residents of the City who shall be appointed by the Mayor, and confirmed by the City Council.

Sec. 1002. POWERS AND DUTIES OF THE PLANNING COMMISSION.

It shall be the responsibility of the Planning Commission to advise the City Council on all matters affecting the development and redevelopment of the City and to perform such other related functions as may be authorized by the City Council. All actions of the Commission shall be advisory only, except for those matters where final authority has been assigned to the Planning Commission. The powers and duties of the Planning Commission shall include the following:

(a) To prepare, approve and recommend to the City Council for adoption or amendment a comprehensive General Plan which shall serve as a basic policy guide for future growth, development, redevelopment, conservation and improvement of the City.

(b) To prepare, approve and recommend to the City Council for adoption or amendment all specific neighborhood plans and redevelopment area plans.

(c) To prepare, approve and recommend to the City Council such ordinances and resolutions, including zoning and subdivision

regulations, as are necessary to implement the General Plan, specific neighborhood plans and redevelopment area plans. The City Council shall not adopt or amend any such ordinances or resolutions until it has first requested a report and recommendation from the Commission. The report shall be submitted within a reasonable time and shall evaluate such recommendation with regard to its consistency with the General Plan.

(d) To analyze data and information on the physical, social and economic conditions of the City with reference to both past and future conditions, and to report regularly to the City Council on such matters.

(e) To perform such other duties as may be established by this Charter or the City Council.

ARTICLE XI - CIVIL SERVICE

Sec. 1100. ORGANIZATION.

The Civil Service Commission, shall be composed of five (5) residents of the City to be appointed by the Mayor and confirmed by the City Council.

Sec. 1101. POWERS AND DUTIES.

The powers and duties of the Civil Service Commission shall be:

- (a) Adopt and amend Civil Service Rules and Regulations, subject to the approval of the City Council;
- (b) Make independent investigations concerning the enforcement of this Article and the rules adopted;
- (c) Provide for the examination and certification for employment in the classified service;
- (d) Create classifications of employees in the classified service, subject to the power of the City Council to establish positions of employment;
- (e) Maintain eligible lists for classified positions, as needed;
- (f) Appoint a staff to assist in carrying out the purposes of this Article;
- (g) Adjudicate appeals, to subpoena and require the attendance of witnesses and the production of any documents pertinent to any Commission investigation or appeal, and to administer oaths to such witnesses;
- (h) Enforce and remedy violation of Commission rules;

(i) Make final decisions in any matter properly brought before it, in the absence of action to the contrary by the City Council.

Sec. 1102. CATEGORIES OF EMPLOYMENT.

The Civil Service of the City is hereby divided into the unclassified and classified service.

(a) The unclassified service shall include:

(1) All officers elected by the people and all employees of such elected officers;

(2) Members of all appointive commissions;

(3) The City Manager and all employees of the City Manager's Department;

(4) The City Clerk and all employees of the City Clerk;

(5) Department heads, one assistant department head in each department, bureau heads, division heads, and one clerical position for each;

(6) All supervisors. The term "supervisor" means those members of supervisory classifications, the duties of which specifically include having authority, in the interest of the City, to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of merely routine or

clerical nature, but requires the use of independent judgment. Subject to the approval of the City Council, all classifications, existing or to be created, shall be placed in the "supervisory" category only if the primary duties of the classification in question sufficiently coincide with the above definition of "supervisor".

(7) Any classification which, at the discretion of the Commission, is of such a nature as to require unique and special flexibility for efficient administration.

(b) The classified service shall comprise all positions not specifically included in this Charter in the unclassified service. There shall be in the classified service the following three (3) classes, to be known as the competitive class, the noncompetitive class and the casual labor class.

(1) The competitive class shall include all positions and employment for which it is practicable to determine the merit and fitness of applicants by competitive examinations;

(2) The non-competitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional or educational character, or as may be determined by the rules of the Commission.

(3) The casual labor class shall include all positions of casual or as needed employment, or as may be determined by the rules of the Commission.

Sec. 1103. DISCIPLINARY APPEALS.

No employee in the classified service shall be suspended, discharged or reduced in classification for disciplinary reasons until the employee has been presented with the reasons for such action specifically stated in writing. The employee shall have the right to appeal such action to the Commission in accordance with the procedures specified in its rules. The reasons for such action and any reply thereto by the employee, shall be filed in writing with the Commission.

Sec. 1104. NON-DISCRIMINATION.

No person in the employ of the City or seeking admission thereto, shall be appointed, reduced, or removed or in any way favored or discriminated against for any reason which is non-job related.

ARTICLE XII - HARBOR DEPARTMENT

Section 1200. ESTABLISHMENT OF HARBOR DEPARTMENT.

To promote and develop the Port of Long Beach, there is hereby created a Harbor Department.

Sec. 1201. HARBOR DISTRICT.

The boundaries of the Harbor District, as referred to in this Article, are those existing as of the first day of February, 1979, or as the boundaries may have been thereafter changed in accordance with law.

Sec. 1202. BOARD OF HARBOR COMMISSIONERS.

The exclusive control and management of the Harbor Department is hereby vested in the Board of Harbor Commissioners, which shall be composed of five (5) members.

Sec. 1203. POWERS AND DUTIES OF THE COMMISSION.

The Commission shall have the exclusive power and duty for and on behalf of the City:

(a) To sue and defend in the name of the City in all actions and proceedings pertaining to any matters within the jurisdiction of the Commission.

(b) To provide for the needs of commerce, navigation, recreation and fishery in the Harbor District; to plan, promote, develop, construct, re-construct, alter, repair, maintain, equip, and operate all properties including, but not limited to, the piers, wharves, seawalls, docks, basins, channels, slips,

landings, warehouses, floating and other plants or works, and all other publicly owned facilities or appliances incident to the operation of the Harbor District, both inside and outside the Harbor District; to dredge and reclaim land, to construct, equip and operate terminal trackage with connections between docks, piers and other Harbor District properties and connect the same with mainline tracks; to provide services including, but not limited to, tugs, dredges, fireboats, barges, cold storage plants; to establish, equip and operate all other facilities or aids incident to the development, protection and operation of the Harbor District, and to modify plans from time to time as the requirements of commerce, navigation, recreation or fishery may demand, and as the Commission may deem proper and desirable in its judgment.

(c) To direct, control, and supervise the Harbor District, including all the waterfront properties, and lands adjacent thereto, or under water, structures thereon, and approaches thereto, storage facilities and other utilities, and all rights and interests belonging thereto, which are now or may hereafter be owned or possessed by the City, both inside and outside of the Harbor District, except such lands or parts thereof, for so long as the same may be used for or in connection with the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas and other hydrocarbon substances by the City, provided that with respect to such portions of said lands used therefor as are tide and submerged lands, whether filled or unfilled, or that are held subject to the tideland trust, that the Commission has determined by resolution, that said lands or

parts thereof, are not required, and with reasonable certainty will not be required, for a period not to exceed thirty-five (35) years, for the promotion or development of commerce, navigation, recreation, or fishery.

(d) To control and have jurisdiction of that part of the City hereinafter defined as the "Harbor District", as said district was bounded and described on the first day of February, 1979, except as to those lands, or parts thereof, within said district as may be used for or in connection with the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas and other hydrocarbon substances by the City as provided herein; and to make and enforce in the Harbor District general rules and regulations, to the extent that may be necessary or requisite for port purposes and harbor development, and in carrying out the powers elsewhere vested in the Commission; provided, however, that with the approval of the City Council, the Commission may, with the prior approval of the electors, relinquish to the City Council control of portions of the Harbor District. Upon request of the Commission, the City Council may, by ordinance, also with the prior approval of the electors, change the boundaries of the Harbor District.

(e) To require owners of water terminal properties and facilities within the Harbor District to keep said properties and facilities in proper condition and repair and to maintain them with especial reference to the safety of persons and property and the reduction of fire hazard or nuisances. The Commission shall have the right to inspect such terminal facilities at reasonable times.

(f) To regulate and control all public service and public utilities operated in connection with, or for the promotion and accommodation of commerce, navigation, recreation or fishery in the Harbor District; to fix the proper license fees to be paid to the City by any person, firm or corporation operating any such public service or utility; and to fix and regulate the rates or tolls to be charged or collected for services furnished by any such public service or utility. The Commission shall have the right, at all reasonable times, to have access to, and, in person, or by its duly authorized representatives, to examine the books, papers, maps and records showing the affairs, transactions, property and financial condition of such persons, firms or corporations, and to require reports respecting said matters from such persons, firms or corporations at such times and in such form as the Commission may prescribe. The amounts of the license fees to be paid to the City by any such person, firm or corporation, operating any such public service or utility and the rates or tolls to be charged and collected for service furnished or supplied by such public service or utility shall be fixed by the Commission by ordinance.

(g) To regulate the speed, berthing, anchoring, towing, loading, unloading and mooring of vessels within the Harbor District.

(h) To provide for handling, storage and reconditioning of all commodities; to sell or otherwise dispose of personal property within its possession or ownership.

(i) To issue receipts, negotiable or otherwise, for property or merchandise, in its charge or possession, and to act as agent in sales and other contracts.

(j) To fix all rates, dockage, rentals, tolls, pilotage, wharfage, and charges for the use and occupation of the public facilities or appliances of the port, and for services rendered by the Harbor Department, and to provide for the collection thereof.

(k) To use, for loading and unloading cargo, with the right to collect tolls, dockage and other terminal charges thereon, such portions of the streets of the City ending or fronting upon the water areas of the harbor of said City, as may be used for said purposes.

(l) To lend its aid to secure the improvements of navigable tidal waters, within or adjacent to the Harbor District where, in its opinion, such improvements are economically justifiable, and in the general carrying out of its powers to cooperate with the City, with neighboring cities, other ports, the State of California, or the United States Government; and to appear before state, federal and other public legislative and administrative authorities.

(m) To manage the business of the port and promote the maritime and commercial interests by proper advertisement of its advantages, and by the solicitation of business, within or without the Harbor District, within the State of California or other states or in foreign countries, through such employees and agencies as it may deem expedient.

(n) To acquire in the name of the City by purchase, condemnation, gift, lease, or otherwise take over and hold all lands, property, property rights, leases, or easements, and personal property of every kind, necessary or convenient for the development

and operation of the Harbor District, or for the carrying out of the powers herein granted to the Commission.

Whenever the Commission determines that any lands owned by the City within its jurisdiction have become unnecessary for port purposes or harbor development, it may by ordinance, transfer such land to the control of the City Council, free from all restrictions, other than trust restrictions, if any.

(o) To enter into contracts, agreements, leases, or stipulations, germane to the scope of its powers and duties.

(p) To let all work by contract or order it done by day labor, as the Commission may determine.

(q) To create bureaus and divisions of the Harbor Department. To employ and appoint an Executive Director who shall be Chief Executive of the Harbor Department and who shall exercise the management of all affairs and activities placed under the jurisdiction of the Commission, and an Assistant Executive Director, each of whom shall hold such position during the pleasure of the Commission. To appoint and employ such other officers and employees as may be necessary in the efficient and economical carrying out of its functions. To prescribe and fix the duties, authority and compensation of all appointees hereunder and to require such officers and employees to give a bond in such an amount as the Commission may require for the faithful performance of their duties. All officers and places of employment in the permanent service of the Commission shall be created by resolution.

(r) To confer upon and delegate to the Executive Director such powers and duties as the Commission shall deem appropriate.

(s) To expend all funds necessary to the carrying out of the powers and duties herein expressed.

(t) To adopt and enforce such ordinances, orders, regulations and practices as are necessary for the proper administration and discharge of its duties and powers, or for the management and government of the Harbor District and its facilities.

(u) To prescribe fines, forfeitures and penalties for the violation of any provision of this Article, or of any ordinance of the Harbor Commission, but no penalty shall exceed Five Hundred Dollars (\$500.00) fine, or six (6) months imprisonment, or both.

(v) To do and perform any and all other acts and things which may be necessary and proper to carry out the general powers of the City, or any of the provisions of this Article, and to exercise all powers not in conflict with the Constitution of the State, or with this Charter, germane to the scope of its powers, purposes and duties.

Sec. 1204. ADDITIONAL POWERS.

The City Council, subject to the approval of the Commission, may by ordinance confer upon and delegate to the Commission from time to time, such additional powers and duties which may be vested in it, and which it may deem necessary or convenient to carry out the general purposes of such Commission.

Sec. 1205. CONTROL OF HARBOR PROPERTY.

No franchise shall be granted, no property shall be acquired or sold, no street shall be opened, altered, closed or abandoned, and no sewer, street, or other public improvement shall be

located or constructed in the Harbor District by the City without the approval of the Commission.

Sec. 1206. ORDINANCES AND RESOLUTIONS.

All actions taken by the Commission shall be by motion or by resolution except as set forth in this Article.

The Commission shall keep a minute book wherein shall be recorded the proceedings taken at its meetings and it shall keep a record and index of all its resolutions and ordinances, which shall be open to public inspection when not in use.

No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least three (3) members of the Commission.

No ordinance shall be placed upon its final passage upon the same day it has been introduced except emergency ordinances. All ordinances and resolutions shall be posted in three (3) conspicuous places in the City unless publication is ordered by the Commission or otherwise required by law. No ordinance shall become effective until thirty (30) days after the date of its final passage, except emergency ordinances.

The Commission may, by vote of three (3) of its members, pass emergency measures to take effect at the time indicated therein. Emergency measures shall contain a section in which the emergency is particularly set forth, and defined, and a separate roll call on the question of the emergency shall be taken.

All ordinances shall be signed by the president, or vice president of the Commission and attested by the secretary.

A certified copy of each ordinance adopted by the

Commission shall be forthwith filed with the City Clerk, and the City Clerk shall keep a record and index thereof which shall at all times be open to public inspection.

All proceedings for the acquisition of real property by purchase, condemnation, or otherwise, or the granting of any lease longer than five (5) years, the fixing, regulating and altering schedules of rates, dockage, wharfage, tolls and charges for all public-owned docks, piers, wharves, slips and other facilities, and for services rendered by the Harbor Department and the adoption of all general rules and regulations of the Commission, excepting administrative regulations of a temporary nature, shall be taken by ordinance, provided that the Commission may by resolution, fix, regulate and alter schedules of rates, dockage, wharfage, tolls and charges for all public-owned docks, piers, wharves, slips and other facilities, and for services rendered by the Harbor Department for a period not to exceed ninety (90) days.

Sec. 1207. LEASING.

(a) All tidelands and submerged lands within the Harbor District, whether filled or unfilled, now owned or hereafter acquired by the City are hereby declared to be required for use for purposes in connection with, or for the promotion and accommodation of commerce, navigation, recreation or fishery, and shall, except as herein provided, continue to be withheld for such purposes. It shall be unlawful to grant, sell, convey, alienate, transfer or otherwise dispose of, except as herein provided, any part of or

any interest in the waterfront, tidelands, submerged lands, or appurtenances thereto belonging, owned, controlled, possessed or held by the City in the Harbor District; provided that grants of such lands may be made to the State of California, or to the United States of America, for public purposes, when authorized by a majority vote of the qualified voters of the City, voting upon the question of authorizing any such grant at an election.

(b) Notwithstanding any other provision of this Charter to the contrary, the Commission shall not be required to operate directly all of the properties, facilities and utilities under its control or jurisdiction, and shall have the power to authorize the operation of any of such properties, facilities and utilities by a private person, firm, association or corporation, whether by lease, franchise, license, assignment, permit or otherwise, upon such terms and conditions as the Commission shall prescribe, which terms and conditions shall include control over the rates, charges and practices of said private party to the extent permitted by law.

(c) The Commission shall have power to grant to any person, firm or corporation, franchises, leases, assignments and permits of any properties and facilities belonging to or possessed by the City under the jurisdiction of the Commission for public uses and purposes consistent with the trusts upon which said lands are held for periods not exceeding sixty-six (66) years, as hereinafter provided. Whenever it shall be determined by the Commission, by ordinance, that such properties therein described may not be required at such time for use for purposes in connection with, or for the promotion and accommodation of commerce, navigation, recreation or

fishery the Commission shall have power to grant leases of such properties for periods not exceeding fifty (50) years, pursuant to competitive bidding, for any and all purposes, which shall not interfere with commerce, navigation, recreation or fishery, and are not inconsistent with the trusts upon which said lands are held by the City.

(d) All such franchises, permits and leases shall be granted subject to such terms and conditions and such rental and compensation as prescribed therein, and to the limitations, conditions, restrictions and reservations contained in this Article. Every such grant for a period of five (5) years or less shall be made by resolution, and every such grant for a period of more than five (5) years shall be made by ordinance.

Every ordinance making any such grant for a period of more than five (5) years shall be published and/or posted once in the same manner as ordinances of the City. Every such ordinance, when published and/or posted, shall, before the same becomes effective, be subject to the referendum provisions of this Charter relating to ordinances.

Every such grant shall provide for a readjustment of the rental or the compensation not less than every five (5) years during the term thereby created, upon such procedure as shall be specified in such grant.

(e) Every such grant shall be made only upon the condition, whether expressed therein or not, that the construction of the works, structures or improvements provided for therein shall, if the same be not already constructed or made, be commenced promptly

after such grant becomes effective, and be prosecuted diligently to completion upon such further terms and conditions as may be prescribed therein.

(f) No total or partial assignment, transfer, sublease, gift or grant of control shall be valid for any purpose unless first approved by the Commission.

(g) Every such grant shall be subject to such rights-of-way over the lands embraced therein for such sewers, pipelines, conduits, and for such telephone, telegraph, light, heat or power lines as may from time to time be determined by the Commission and the same shall be subject to such rights-of-way for such streets and other highways and for such railroads and other means of transportation as shall have been duly established or shall be reserved in such grant. No such grant shall ever be made that shall provide for any use of the property or for the construction or placing of any structure, building or other improvement thereon that shall interfere with any plan approved or adopted by the Commission for harbor improvements or for the development of facilities for the promotion and accommodation of commerce, navigation, recreation or fishery or for providing railroad or other terminal facilities.

(h) Every such grant shall prescribe that upon the expiration thereof, all wharves, piers, docks, slips, bulkheads, sea walls and channels, constructed or maintained thereunder, shall be and become the property of the City without compensation therefor to the grantee or holder thereof; and as to the other permanent structures or improvements constructed or maintained thereunder, shall prescribe whether the same shall become the property of the

City without compensation or upon compensation to be paid to such grantee or holder, or shall be removed by such grantee or holder at his own expense.

(i) The Commission shall have power to declare a forfeiture of any such grant upon the neglect, failure or refusal of the grantee thereof to comply with any of the terms or conditions thereof. Upon any such forfeiture, any and all buildings, structures and improvements of whatsoever character, erected, installed, or made under, through or because of, or pursuant to the terms thereof, shall immediately ipso facto become the property of the City, and every such grant shall so provide.

(j) Grants of franchises, permits, leases, revocable permits and assignments provided for herein shall be made only upon written application therefor submitted to the Commission, which application shall set forth such information as the Commission may require and, when prescribed by the Commission, such application shall be accompanied by a fee to cover the expenses of making any such grant.

(k) The Commission shall have power to enter into agreements with other agencies owning or operating facilities outside the Harbor District for the purpose of purchase, lease or other use or service of their facilities in order to facilitate the unified management and control of transportation facilities providing essential services to the Harbor District.

Sec. 1208. LEASING AND OPERATION OF RAILROAD FACILITIES.

The Commission shall have power to contract for or permit

the operation of trains and cars upon the municipal terminal railroad of the City upon such terms and conditions as it may prescribe. In order to provide for the unified or joint operation and control of railroad facilities in the Harbor District, both municipal and private, the Commission shall have power:

(a) To lease all necessary privately owned railroads, tracks, facilities and adjuncts and to operate, or provide for operation of, the same in conjunction with the municipal terminal railroad; or

(b) To lease the municipal terminal railroad to an association, corporation or company for the purpose of operating the same together with all other privately owned railroads, tracks, facilities, and adjuncts in the Harbor District necessary to provide unified or joint operation and control of all such facilities; provided, that any such lease shall be by ordinance and subject to the referendum provisions of this Charter.

Sec. 1209. FINANCE.

(a) All money received or collected from or arising out of the use or operation of any harbor or port improvement, work, appliance, facility or utility, or water craft, owned, controlled, or operated by the City in or upon or pertaining to the lands and waters under control and management of the Harbor Department; all tolls, charges and rentals collected by the Harbor Department, and all compensations or fees required to be paid for services, franchises or licenses, or otherwise by law or ordinance or order, to the City for the operation of any public service utility upon lands

and waters under the control and management of the Harbor Department, shall be deposited in the City treasury to the credit of the Harbor Revenue Fund, which fund has been heretofore created and established and is hereby continued, and shall be kept separate and apart from other monies of the City. Said fund shall be a continuing fund not subject to transfer at the close of the fiscal year.

(b) The money deposited in the Harbor Revenue Fund may, from time to time, be invested in accordance with the provisions of applicable legislation of the state of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State, all interest, earnings, income or profits from the investment of said money shall likewise be deposited to the credit of said fund.

(c) Monies credited to the Harbor Revenue Fund may be appropriated and used only for the following purposes:

(1) For the necessary expenses of promoting, conducting, managing and operating the Harbor Department, including, but not limited to, the operation, repair and maintenance of all harbor or port improvements, works, utilities, appliances, facilities and water craft, owned, controlled or operated by the City, for the promotion and accommodation of commerce, navigation, recreation or fishery, or used in connection therewith;

(2) For the acquisition, construction, completion and maintenance, to the extent and in the manner permitted by all applicable law, of harbor and port improvements, buildings, work, utilities, appliances, facilities, and

water craft, for the promotion and accommodation of commerce, navigation, recreation or fishery, or used in connection therewith, and for all other improvements and betterments authorized by law to lands and property under the control, supervision and management of the department, including the purchase or condemnation of necessary lands and other property and property rights, except that condemnation of property outside of the Harbor District shall require the consent of the City Council.

(3) For the payment of the principal or interest, or both, of harbor improvement bonds, either general obligation bonds or revenue bonds, issued for harbor improvements.

(4) To pay into the Tideland Operating Fund from surplus money in the Harbor Revenue Fund, such sums which, in the judgment of the Commission, will not be needed for Harbor Department purposes, including without limitation, operating expenses, capital projects and sums, necessary to pay principal and interest of revenue bonds issued for harbor purposes. Such sums may be expended for the purpose of maintaining the public beaches and parks, lifeguard and public restroom facilities, and for other related purposes, when located on tide and submerged lands, whether filled or unfilled, situated within the City outside the Harbor District, heretofore conveyed to the City upon certain trusts and conditions by Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, and Chapter 158, Statutes

of 1935.

(d) All reimbursements, repayments and approved reimbursement transfers from other established funds may be used for the same purposes as specified above. All such reimbursement transfers shall be made by journal entry on the books of the City in the manner determined by the City Manager.

Sec. 1210. ANNUAL BUDGET.

The Commission shall, not later than sixty (60) days prior to the beginning of each fiscal year, adopt and transmit a departmental budget for the forthcoming fiscal year covering the anticipated revenue and the expenditures of the Harbor Department, wherein shall be stated the amount necessary, if any, to be raised by tax levy. Such departmental budget shall conform to the general City budget. Two certified copies of said budget shall forthwith after adoption by the Commission, be filed with the City Clerk for presentation to the City Council and one certified copy shall forthwith be filed with the City Auditor. Such budget shall be subject to the approval of the City Council as is provided in this section. The City Council shall, not later than the first day of July of each calendar year, approve the budget adopted by the Commission or shall amend said budget and approve the same as amended not later than the first day of July of each calendar year.

The City Council may appropriate such amounts as it may deem necessary and proper to be expended pursuant to said annual departmental budget, and such amounts thus appropriated shall be

included in said annual departmental budget as anticipated revenue of the Harbor Department. In the event the City Council shall not approve said budget or amend the same and adopt said budget as amended on or before said first day of July, the same shall become effective as the official budget of the Harbor Department for the forthcoming fiscal year. In the event the City Council shall amend said budget and approve the same as amended as above provided, a certified copy of said approved budget as amended shall be filed with the Commission and the City Auditor.

No expenditure shall be made or financial obligation incurred by the Commission, its officers or employees, except as authorized by said annual departmental budget. Said budget, when effective, shall constitute an appropriation covering the anticipated revenues and expenditures of the Harbor Department as therein set forth.

Sec. 1211. BOND INDEBTEDNESS.

(a) The proceeds from the sale of bonds now authorized or which shall hereafter be authorized for port or harbor purposes, shall be under the control of and expended by the Commission, and shall be expended for the objects and purposes for which the indebtedness was incurred. Whenever it is desired to incur additional general obligation bonded indebtedness for any object or purpose consistent with its general powers, the Commission shall prepare tentative plans and estimates and submit its recommendation in writing to the City Council.

(b) The Commission shall be authorized, with the approval

of a majority of all members of the City Council, to provide without an election for the issuance of revenue bonds secured by the revenues of the Harbor Department, including but not limited to revenues from the operation of the port and harbor facilities of the City as the facilities now exist or may later be extended or improved, for the purpose of acquiring, providing for, erecting, constructing, reconstructing, replacing, extending, or improving such improvements, utilities, structures, water craft, appliances, facilities and services as the Commission may deem necessary or convenient for the promotion or accommodation of commerce, navigation, recreation or fishery or for any use in connection therewith, or upon the lands and waters, or interest therein, in the possession and under the management, supervision and control of the Commission, or for the payment of the cost of acquiring or taking such real property or any interest therein, that the Commission may deem necessary or convenient for such purpose. The procedure for issuance of revenue bonds by the Harbor Department shall be established by procedural ordinance of the City Council.

Notwithstanding all or any part of this section, nothing herein shall be construed as a limitation upon the power of the City or of any department thereof to issue revenue bonds without an election, under state law or procedural ordinance.

Sec. 1212. MONIES ON HAND.

All money deposited in the City Treasury to the credit of the Harbor Bond Redemption and Interest Fund, which fund has been heretofore created and established and is hereby continued, shall

be used solely and exclusively to pay the principal and interest on all general obligation bonds issued by the City of Long Beach for harbor purposes. Said fund shall be a continuing fund not subject to transfer at the close of the fiscal year. When there shall have been deposited in such fund sufficient money to pay the principal and interest on any and all outstanding bonds, thereafter, and until there may be other such bonds outstanding, no further deposits shall be made into said fund. All money which would otherwise be deposited therein, including interest increments, shall be paid into the Harbor Revenue Fund. The money deposited in the Harbor Bond Redemption and Interest Fund may be invested in accordance with the provisions of applicable legislation of the State of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State. A separate fund or funds may be established for the purpose of paying, or securing the payment of, revenue bonds for harbor purposes and the pledge of revenue to such funds may have priority over any allocation of revenues to pay the principal and interest of general obligation bonds.

Sec. 1213. DUTIES OF CITY TREASURER.

All monies under the control of the Commission shall be immediately paid over to the City Treasurer, who shall have the care and custody of said funds, and shall keep separate accounts thereof, and pay out the same, as provided in this Charter.

Sec. 1214. CONTRACTS.

All contracts, except where the expenditure involved does

not exceed the amount established by ordinance of the City Council for city departments shall be made and entered into upon competitive bidding in the manner and form as provided in this Charter. All powers and duties therein conferred or imposed upon the City Council in relation to all matters connected with the Harbor District, are hereby conferred and imposed upon the Commission. All powers and duties therein conferred or imposed upon the City Manager, in relation to all matters connected with the Harbor District are hereby conferred and imposed upon the Executive Director of the Harbor Department. Plans and specifications at the time of publication of notice inviting such bidding must be on file in the office of the Commission, subject to public inspection. Except as otherwise provided, all supplies and/or materials not required to be obtained upon competitive bidding, or for actual emergency work, shall be procured for the Commission by the City Purchasing Agent, in accordance with procedures prescribed therefor by the City Manager.

Sec. 1215. BUILDING PERMITS.

No person or persons shall construct, extend, alter, improve, erect, remodel or repair any pier, slip, basin, wharf, dock or other harbor structure, or any building or structure within the Harbor District without first applying for and securing from the Commission a permit so to do, in accordance with the rules and regulations adopted by it. In approving or denying the right to said permit, the Commission shall consider the application therefor, the character, nature, size and location of the proposed improvement

and exercise a resonable and sound discretion during said consideration.

Such permit shall be in addition to any permit which may be required by law from the Superintendent of Building and Safety of the City.

Sec. 1216. PUBLIC STREETS.

Whenever the Commission shall determine that it is necessary to open, close, improve, alter or vacate a dedicated public street, or part of a street, or easement within the Harbor District, a certified copy of the resolution so determining such necessity shall be filed by the Commission in the office of the City Clerk, whereupon the City Engineer and the City Council may initiate and carry to completion the proceedings necessary to effect said proposal.

Sec. 1217. CIVIL SERVICE.

All permanent positions in and under the Commission shall be included in the classified Civil Service of the City, except the Executive Director, Assistant Executive Director, Bureau and Division Heads and one clerical position for each, Assistant Bureau and Division Heads, Executive Secretary of the Commission, supervisory, sales and promotion personnel, field and traffic representatives and all personnel intermittently employed in handling cargo and freight.

Sec. 1218. CONFLICT WITH OTHER PROVISIONS.

The provisions of this Article shall supersede and

control all other provisions of the Charter in conflict therewith. To all other extents, the powers, duties and functions heretofore vested in the City Council, or any of the officials, boards, or departments of the City shall be unimpaired.

ARTICLE XIII - MANAGEMENT OF OIL PROPERTIES

Sec. 1300. OIL PRODUCTION.

The power of the City to drill for, develop, produce, extract, process, take or remove, store and dispose of oil, gas and other hydrocarbon substances, of whatsoever kind, from, under, across or through any and all lands including all tide and submerged lands, whether filled or unfilled, and whether such lands belong to the City, or whether such lands be those in or from which the City now or hereafter may have said rights, shall be exercised by such means, or methods, or in such manner as the City Council may authorize.

Before such power may be exercised as to tide and submerged lands, whether filled or unfilled, or as to such lands as are held subject to the tideland trust, the City Council, as to such lands outside the Harbor District, and the Board of Harbor Commissioners, as to such lands within the Harbor District, shall first determine, by resolution, that such lands, or parts thereof, intended to be so used are not required, and with reasonable certainty will not be required, for a period of thirty-five (35) years or for such term or period of the lease, contract or other agreement between the City and other persons, firms, corporations or associations pursuant to which such powers may be exercised and relating to such lands or parts thereof, for the promotion or development of commerce, navigation, recreation or fishery.

With respect to tide and submerged lands, whether filled or unfilled, if the City Council shall elect to drill for, develop,

produce, extract, process, take or remove, store and dispose of oil, gas and other hydrocarbon substances directly by its own employees and under its own supervision and direction, or by agreements with other persons, firms, corporations or associations, whereby the City shall pay a cash consideration for the performance of such agreements, said City Council may commence and prosecute such operations by using monies derived from, or allocated or assigned to, or attributable to production, from or allocated or assigned to all tide and submerged lands granted to the City by the State of California and to any lands within the City limits belonging to the City and which were purchased or acquired, in whole or in part, by use of tideland trust monies.

Sec. 1301. COMPETITIVE BIDDING FOR OIL PRODUCTION RIGHTS.

(a) The City Council may authorize and direct the execution of leases, contracts or other agreements between the City and other persons, firms, corporations or associations to drill for, develop, produce, extract, process, take or remove, store and dispose of oil, gas and other hydrocarbon substances from, under, across or through any and all lands including tide and submerged lands, whether filled or unfilled, belonging to the City, or such lands in or from which the City may now or hereafter have said rights for the term or period in each instance not to exceed such as provided by law.

Any such lease, contract or other agreement referred to above shall be made and entered into with the highest responsible bidder upon competitive bidding in the manner and form as shall be

approved by said City Council, after publication of notice calling for bids in a newspaper of general circulation within the City.

All specifications and forms for the purpose of inviting bids in connection with such leases, contracts or other agreements relating to tide and submerged lands, whether filled or unfilled, shall be approved by the State Lands Commission prior to publication of notice to bidders. All such leases, contracts or other agreements shall be of no effect unless and until approved by said State Lands Commission. All such leases, contracts or other agreements shall include all provisions necessary to assure compliance with the requirements of applicable laws of the State of California, including Chapter 29, Statutes of 1956, First Extraordinary Session, and Chapter 138, Statutes of 1964, First Extraordinary Session, or such as may be lawfully required by subsequently enacted legislation, as such legislation is, has been or may hereafter be construed by the courts having jurisdiction thereof. No such leases, contracts or other agreements shall be modified or amended in any respect without the advance consent of said State Lands Commission.

The City Council may authorize the execution of any such lease, contract or other agreement between the City and other persons, firms, corporations or associations, including such lands, other than tide and submerged lands granted to the City by the State of California, in a community lease embracing adjoining lands not belonging to the City without such competitive bidding.

Notwithstanding the competitive bidding requirement

hereinabove provided, the City Council may, by negotiation and without resort to competitive bidding, extend the term of any lease, contract or other agreement providing for the drilling for, developing, producing, extracting, processing, taking or removing, storing, and disposing of oil, gas or other hydrocarbon substances, and in connection therewith, amend and modify the provisions, conditions and limitations thereof, including any provision for the division of the proceeds from oil and gas operations conducted thereunder, concerning the lands above referred to, except as to those leases, contracts or other agreements relating to the exploration and development of the tide and submerged lands granted to the City by the State of California; provided, however, that any such extension of term, including the existing unexpired term of any such lease, contract or other agreement, shall not exceed twenty-five (25) years.

The power of extension hereby conferred is in addition to all other powers possessed by the City Council with respect to any such lease, contract or other agreement heretofore entered into and this subdivision is not intended, nor should it be construed, as divesting or in any manner diminishing any power which the City Council now has, with respect to matters not involving an extension of term, to amend or modify any such lease, contract or other agreement for the remainder of the term hereof.

(b) Notwithstanding the determination requirement contained in the second unnumbered paragraph of Section 1300 or the limitation as to term contained in subdivision (a) of this Section, the City Council may enter into cooperative or unit agreements

with respect to the lands or any interest in lands referred to in subdivision (a) of this section, all as more particularly herein-after provided.

Whenever the City Council determines by resolution, that it is in the interest of safeguarding life, health, welfare or property, or that the subsidence or sinking of any of said lands or abutting lands may possibly be arrested or ameliorated thereby, or that it is in the interest of increasing the ultimate recovery of oil or gas from such lands or of the protection of the oil or gas in said lands from unreasonable waste, provision may be made in any lease, contract or other agreement so as to provide, and any existing lease, contract or other agreement may be amended so as to provide, that any such lands may, at the direction of the City Council, be included in a cooperative or unit agreement with other lands belong to the City, or with other lands not belonging to the City, for the purpose of bringing about the cooperative development or operation of all or a part or parts of the oil and gas field in which such lands are located, or for the purpose of bringing about the development or operation of all or a part or parts of such field as a unit, or for the purpose of fixing the time, location and manner of drilling and operating of wells for the production of oil or gas, or providing for the return or injection of gas, water or other substances into the subsurface of the earth.

In the event the City Council determines that any such lands, including lands not subject to any lease, contract or other agreement, should be included in such a cooperative or unit

agreement, the City Council shall have the power to negotiate and authorize the execution of all agreements necessary to effectuate, implement or modify such arrangement, including the power to bind and commit any such lands to a cooperative or unit agreement for the full term thereof and irrespective of the termination date of any lease, contract or other agreement then in effect as to such lands. The term of any such cooperative or unit agreement may be for such period or periods, including indefinite periods, as the City Council shall determine, and the competitive bidding provisions in this Charter prescribed shall not apply to the making, implementation or modification of any such cooperative or unit agreement.

The provisions of any existing lease, contract or other agreement between the City Council, the Board of Harbor Commissioners or the Board of Water Commissioners and any other person, firm, corporation or association relating to the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas or other hydrocarbon substances derived from the lands which are subject to a cooperative or unit agreement may be amended, by negotiation and without resort to competitive bidding, to the extent the City Council shall determine is necessary or desirable in order to institute or effectuate such a cooperative or unit agreement; provided, however, no such amendment and no such cooperative or unit agreement nor any subsequent modification or amendment thereof, shall ever be construed as having the effect, either directly or indirectly, of extending the term of any lease, contract or other agreement then in effect

as to such lands beyond the termination date therein expressly provided, but the foregoing shall not prevent the City Council from extending the term of any such lease, contract or other agreement as permitted by this Charter or applicable law.

Before any tide or submerged lands, whether filled or unfilled, may be included in or committed to any cooperative or unit agreement, or before any modification or amendment of any cooperative or unit agreement which includes such lands may be made:

1. The City Council, as to such lands outside the Harbor District, and the Board of Harbor Commissioners as to such lands within the Harbor District, shall first determine, by resolution, that the surface of such lands or that portion of the surface intended to be utilized, is not required, and with reasonable certainty will not be required, during the term of the proposed cooperative or unit agreement for the promotion or development of commerce, navigation, recreation or fishery; and

2. The State Lands Commission shall approve of any such agreement or any amendments thereto or modifications thereof.

Notwithstanding any other subdivision or section in this Charter, the power of the City Council to enter into unit or cooperative agreements as hereinabove granted shall include the power to do such acts or things and to incur such commitments and obligations as are customary in unit or cooperative agreements.

Without limiting the generality of the foregoing, the City Council shall have the right and power, anything to the contrary in this Charter notwithstanding, to give customary indemnities, lien on production, and other rights to the operator and other parties to the cooperative or unit agreement, and to share in the expenses of any such cooperative or unit agreement.

No agreement providing for a cooperative or unit development plan shall be authorized, the effect of which would permit the construction or installation of derricks, machinery or apparatus on the surface of any land for the purpose of drilling for, pumping or producing oil, gas or other hydrocarbon substances in any area of the City in which such operations shall then be prohibited by regulatory or initiative ordinance.

Sec. 1302. AUTHORITY OVER OIL PRODUCTION TRANSFERRED TO
CITY COUNCIL.

With respect to any and all leases, contracts or other agreements, including cooperative or unit agreements, relating to the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas or other hydrocarbon substances, heretofore entered into pursuant to the provisions of this Charter, wherein the Board of Harbor Commissioners or the Board of Water Commissioners shall be a party thereto, the City Council shall be deemed to be, and shall constitute, the Board of Harbor Commissioners and the Board of Water Commissioners and shall act in the place and stead thereof, and the City Manager shall be deemed to be, and shall constitute the the General Manager of the Harbor Department or the General

Manager of the Water Department, and all powers and duties therein conferred or imposed upon said General Managers are hereby conferred and imposed upon the City Manager, who may delegate the exercise of such powers and duties to a designated representative.

With respect to the aforementioned leases, contracts and other agreements wherein the Board of Harbor Commissioners or the Board of Water Commissioners are parties thereto, the duties and functions pertaining thereto as shall devolve upon the City Council by reason of the provisions of this section may be delegated by the City Council to the City Manager or his designated representative from time to time, by ordinance, resolution or minute order. With respect to the duties and functions of the City Council relating to any other leases, contracts or other agreements, including cooperative or unit agreements, pertaining to the drilling for, developing, producing, extracting, processing, taking or removing, storing or disposing of oil, gas or other hydrocarbon substances entered into by the City pursuant to the provisions of this Charter, such duties and functions may also be delegated by the City Council to the City Manager or his designated representative from time to time, by ordinance, resolution or minute order. A report of any action taken by the City Manager or his designated representative in accordance with such delegation by the City Council shall be submitted by the City Manager to the City Council at its next regular meeting thereafter, and such action taken shall be deemed approved, confirmed and ratified, in the absence of action contrary thereto, by said City Council at said meeting.

ARTICLE XIV - EDUCATION

Section 1400. THE SCHOOL DISTRICT.

The public school system of the City of Long Beach shall comprise all the public schools within the City of Long Beach or within the territory that is now, or may hereafter be annexed thereto for school purposes, and shall be known as the "Long Beach Unified School District," and shall succeed to all the property, rights and privileges of the former Long Beach City School District, and shall consist of elementary and secondary schools as now established, and may, at the discretion of the Board of Education, include intermediate, technical, summer, industrial, night and continuation schools.

Sec. 1401. POWERS AND DUTIES OF THE BOARD OF EDUCATION.

The powers and duties of the Board of Education shall be as provided in the general law, except as hereinafter provided.

Sec. 1402. THE BOARD OF EDUCATION.

The government of the schools shall be vested in the Board of Education, consisting of five members, who shall have been residents of the territory included in the district for thirty (30) days prior to the first day declaration of candidacy may be filed. The regular school election shall be held on the third Tuesday in March of each odd-numbered year, and there shall be elected respectively two and three members of said Board of Education, whose term of office shall be four years.

Sec. 1403. VACANCIES.

Vacancies in the Board of Education shall be filled for the remaining portion of the term of the vacant office at a special election to be called for that purpose. Said election shall be called within thirty (30) days after the occurrence of such vacancy. Said election shall be held within one hundred twenty (120) days after the occurrence of such vacancy, unless the same shall occur within one hundred twenty (120) days of a regular school election set forth in this Charter, in which event such vacancy shall be filled by the remaining members of the Board of Education. Should three or more vacancies exist at any one time, a special election shall be called as soon as possible by the County Superintendent of Schools.

No person appointed as a successor to serve during the remainder of a term in the Board of Education in which a vacancy occurs shall be designated as an incumbent, a member of the Board of Education, a school board member, or other designation indicating incumbency, for purposes of the next regular school election election for members of the Board of Education.

Sec. 1404. ELECTORS IN OUTSIDE TERRITORY MAY VOTE AT SCHOOL ELECTION.

All territory included in the limits of the Long Beach Unified School District or that may be included within such limits, but not within the City limits, shall be deemed a part of the City of Long Beach for the purpose of holding elections for members of the Board of Education or upon other matters relating to

the schools, and only for such purposes.

Sec. 1405. ELECTIONS.

All elections for members of the Board of Education, or issuing bonds of the school districts, or on propositions to be submitted to the people of the school districts, shall be called, held, conducted and the vote canvassed and declared in accordance with the laws of the State of California governing the election of city boards of education, except as to the time of holding said election and the terms of office of the members of said Board of Education, in which particulars the provisions of this Charter shall govern. The costs and expenses incurred in connection with or incident to any election held under this Article shall not be a charge upon the funds of the City.

Sec. 1406. ORGANIZATION AND MEETINGS OF THE BOARD OF EDUCATION.

The Board of Education shall enter upon the discharge of their duties on the third Monday in April after their election and shall meet upon said day and annually thereafter and organize by electing one of their number president, and one as vice-president, whose term of office shall be one year.

ARTICLE XV - DEPARTMENT OF PUBLIC UTILITIES

Section 1500. ORGANIZATION.

There is hereby created and established a Department of Public Utilities, to be under the supervision and control of the City Manager in all matters. This department shall consist of the City's Gas and Water Utilities and such other public utilities as may, from time to time, be owned, operated or controlled by the City.

The City Manager shall appoint a General Manager of the Department of Public Utilities and such other supporting superintendents or managers as he determines necessary to serve at the pleasure of the City Manager.

Section 1501. UTILITY REVENUES.

All revenues received from the operation of each public utility owned and operated by the City shall be deposited and kept in a separate revenue fund in the name of the utility operation generating the revenue and shall be disbursed therefrom on behalf of each such utility operation in the following order of priority:

(a) Payment of interest and principal coming due on any bonded indebtedness relating to the utility which generates the revenue in each such specified fund;

(b) Payment of the annual operating and maintenance expenses, acquisitions, improvements and extensions of the respective utility system.

(c) Set aside a portion of each fund as a reserve to be used for contingencies in the operation of each such utility.

(d) The remainder in any of these funds determined by the City Manager to be unnecessary to meet the above obligations may be transferred into the General Purpose Fund of the City as approved in the annual budget by the City Council.

Sec. 1502. CONTINUATION OF EXISTING WATER BOARD AGREEMENTS.

The provisions of any existing lease, contract or other agreement between the Board of Water Commissioners made on behalf of the City and on its own behalf and any other person, firm, corporation or association relating to the operation of the City's water utility system shall continue to be the obligation of the City and all rights thereunder shall inure to the benefit of the City. In all such existing leases, contracts or other agreements, the City Council shall be deemed to be, and shall constitute the Board of Water Commissioners and shall act in the place and stead thereof, and the City Manager shall be deemed to be, and shall constitute the General Manager of the Water Department and all powers and duties therein conferred or imposed upon said General Manager are hereby conferred and imposed upon the City Manager, who may delegate the exercise of such power and duties on the Manager of the Department of Public Utilities.

Sec. 1503. UTILITY RATES.

The rates to be charged users for any services or commodities supplied by any public utility owned and operated by the City shall be based upon the prevailing rates for similar

services and commodities supplied or sold by other like utilities whether public or private, operating in the Southern California area.

ARTICLE XVI - FRANCHISES

Section 1600. GRANT OF FRANCHISE.

Plenary control over all uses of the streets and public places in the City of Long Beach is vested in the City. Franchises may be granted to persons, firms or corporations upon such terms, conditions, restrictions or limitations as may be prescribed by the City Council by ordinance, but no franchise shall be granted without reserving to the City adequate compensation for the privilege conferred.

Sec. 1601. TERM OF FRANCHISE.

No franchise shall be granted for a period longer than sixty (60) years in, upon, over, across or under any street, highway, alley, or other public place in the City.

Sec. 1602. APPLICATION FOR FRANCHISES.

An applicant for a franchise, permit or privilege shall file an application with the City Council in the manner and form required by City ordinance or resolution.

Sec. 1603. HEARING AND BIDDING.

Each bidder shall deposit with the City Treasurer a sum of money to reimburse the City for expenses incurred in connection with the processing of the application as set forth by City ordinance or resolution. The procedures for bidding on new franchises, renewals or superceding franchises, and any hearings thereon, shall be set by ordinance.

Sec. 1604. OTHER CONDITIONS OF FRANCHISES.

Nothing in this Charter shall be construed as prohibiting the City Council from inserting in any ordinance which grants any franchise, permit or privilege, such other conditions and requirements, not inconsistent with the provisions of this Charter, or which the people may, by the initiative process indicate their desire to have inserted.

ARTICLE XVII - FINANCE

Section 1700. THE FISCAL YEAR.

The fiscal year of the City of Long Beach shall commence on the first day of July of each year and shall end on the thirtieth day of June next following, or as provided for by ordinance upon the recommendation of the City Manager.

Sec. 1701. PROPERTY TAXES.

The assessment of property for tax purposes, the equalization of such assessments, the levy, collection and enforcement of property taxes, and the redemption of property from delinquent taxes shall be as provided by State law.

All cost of removing weeds from property shall be a lien upon the real property from which such weeds have been removed. The time when the liens so provided shall attach shall be fixed by ordinance by the City Council.

Sec. 1702. MANAGER'S RECOMMENDED BUDGET.

The City Manager annually shall prepare, and not later than forty-five (45) days prior to the beginning of each fiscal year, submit to the City Council the recommended budget for the forthcoming fiscal year, based upon detailed estimates furnished to the City Manager as may be prescribed. Departmental budgets of departments for which the City Manager is not administratively responsible shall be submitted as furnished by the heads of such departments, but in a form and on a date as prescribed by the City Manager.

Sec. 1703. AMENDMENT OF BUDGET.

The City Council may amend the preliminary budget and shall adopt such preliminary or amended preliminary budget as the budget for the forthcoming fiscal year, and shall not later than the end of the current fiscal year pass an appropriation ordinance conforming thereto. If the City Council fails to adopt a budget and appropriation ordinance by the time prescribed herein, the City Manager's recommended budget shall be deemed to be the budget and appropriation expenditures shall be made in accordance therewith.

Sec. 1704. BUDGET AND APPROPRIATION ORDINANCE.

The Appropriation Ordinance shall govern and control the expenditure and commitment amounts stated therein relating to the several departments, offices and agencies during each fiscal year.

After the adoption of the Appropriation Ordinance, the City Council may authorize the transfer of any portion of an original appropriation which is deemed to be surplus, or may appropriate additional funds from available revenue or surplus which was not included in the budget.

Sec. 1705. TRUST FUNDS.

The City Manager may establish trust and special deposit funds for the deposit of money received by the City in trust or for special purposes. Disbursements may be made from such funds according to the conditions of the deposit, and under rules to be issued by the City Manager.

Sec. 1706. GENERAL PURPOSE RESERVE ACCOUNT.

The City Council may, from time to time, appropriate or transfer monies to a special account in the General Purpose Fund to be designated as the "General Purpose Reserve Account" which account is hereby created and established; provided, that the balance in said account shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000). All funds remaining in the Public Improvement Reserve Fund shall be transferred to this account. Such account shall be a continuing account and not subject to transfer or included in the General Purpose Fund Unreserved Surplus balance at the close of the fiscal year.

The monies appropriated or transferred to and placed in said General Purpose Reserve Account in accordance with appropriation ordinances or applicable sections of this Charter shall be used as determined by the City Council. Upon receiving consent of the City Council, by vote of two-thirds (2/3) of its members, expressed by resolution, the City Manager shall have the power to transfer or expend monies from said General Purpose Reserve Account as set forth in said resolution.

Sec. 1707. DISPOSITION OF NON-TRUST OIL PROCEEDS.

(a) The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances derived from, or allocated or assigned to all lands acquired by the City by purchase, tax deed, exchange, trade or gift, located in the Harbor District of the City, other than lands which were purchased or acquired, in whole or in part, by use of tideland trust

monies, to the extent provided in Chapter 138, Statutes of 1964, First Extraordinary Session, and other than tide and submerged lands which were acquired by the City by grant from the State of California pursuant to the provisions of Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, and Chapter 158, Statutes of 1935, together with all money derived from cash bonuses paid by oil companies or individuals for oil leases on said lands, other than any tideland-trust-money-acquired lands or said tide and submerged lands (including all money paid for permits for drilling oil wells or for the erection of oil well derricks or other buildings in connection with oil development, and irrespective of whether or not such wells, derricks or buildings are located on any tideland-trust-money-acquired lands or on said tide and submerged lands) shall be paid into the General Bond Redemption and Interest Fund, which fund has been heretofore created and established and is hereby continued, so long as any such money shall be required for payment of any unpaid principal or interest on any and all outstanding general obligations bonds of the City other than those issued for Harbor, Water or Gas Department purposes, regardless of when such principal or interest shall be due and payable.

(b) The net proceeds received by the City from the sale or disposition of oil, gas or other hydrocarbon substances derived from, or allocated or assigned to all lands belonging to the City and located outside the Harbor District, other than lands classified as tideland-trust-money-acquired lands or tide and submerged lands, as referred to in subsection (a) above, shall likewise be paid into the General Bond Redemption and Interest Fund so long

as any such money shall be required for payment of any unpaid principal or interest on any and all outstanding general obligations bonds of the City other than those issued for Harbor, Water or Gas Department purposes regardless of when such principal or interest shall be due or payable.

(c) When there shall have been deposited in said fund sufficient monies to pay the principal and interest on any and all such outstanding bonds, thereafter, and until there may be other such bonds outstanding, such money shall be paid into the Public Improvement Reserve Fund, so long as the amount of money therein shall be not more than the authorized maximum for said fund. Thereafter, whenever said funds shall be filled, and until such money shall be further required for, the General Bond Redemption and Interest Fund, such money, as received, shall be paid into the General Purpose Fund.

(d) The money deposited in the General Bond Redemption and Interest Fund may, from time to time, be invested in accordance with the provisions of applicable legislation of the State of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State. All interest, earnings, income or profits from the investment of said monies shall likewise, to the extent required, be deposited to the credit of said fund.

Sec. 1708. TIDELAND OIL REVENUE FUND.

(a) There is hereby created and established a special fund to be designated as the "Tideland Oil Revenue Fund", which

shall be a continuing fund not subject to transfer at the close of the fiscal year. Revenue from the following sources shall be deposited in the City Treasury to the credit of said fund:

(1) The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances (other than dry gas), including advance payments, derived from, or allocated or assigned to, the "Long Beach tidelands", as defined in Chapter 138, Statutes of California, 1964, First Extraordinary Session.

(2) The net receipts from the sale of property used in the extraction, sale or disposition of oil, gas and other hydrocarbon substances from the Long Beach tidelands, the cost of which has been or may be defrayed from proceeds from such hydrocarbon substances.

(3) The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances (other than dry gas) derived from, or allocated or assigned to, or attributable to production from or allocated or assigned to any lands lying seaward of the northerly boundary of the Long Beach tidelands, as defined in Chapter 138 aforesaid, and westerly of the easterly boundary of the undeveloped portion of the Long Beach tidelands.

(4) The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances (other than dry gas) derived from or allocated or assigned to, or attributable to production from or

or allocated or assigned to any lands owned by the City, including lands under the control and jurisdiction of the Harbor Department, and which were purchased or acquired, in whole or in part, by use of tideland trust monies, to the extent provided in Chapter 138 aforesaid.

(5) The net receipts to the City from the sale of dry gas as such derived from, or allocated or assigned to, or attributable to production from, or allocated or assigned to, the Long Beach tidelands, and which said dry gas is not received into the system of the City's municipal gas department.

(6) The repayment of all sums of money advanced from said fund for the purpose of financing participants in unit agreements and unit operating agreements.

(b) The money deposited in the Tideland Oil Revenue Fund may, from time to time, be invested in accordance with the provisions of applicable legislation of the State of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State.

(c) Money credited to the Tideland Oil Revenue Fund may be used only for the following purposes:

(1) The payment of all reasonable and necessary expenses, whether incurred in conjunction with unitized or non-unitized operations, incident to the development, production, extraction, processing, sale or other disposition

of the oil, gas and other hydrocarbon substances derived from or allocated or assigned to, the Long Beach tidelands, as defined in Chapter 138 aforesaid, the conducting of repressuring and pressure maintenance operations, and the satisfaction of all obligations arising out of or attributable to the conduct of any of the foregoing activities.

(2) The payment to the State of California, for and in compliance with the purposes and formula stated, and for the benefit and reimbursement of the respective State agencies therein designated, whether or not included in the official City budget, such amounts as shall be presently or hereafter required by reason of the enactment by the State Legislature of Chapter 29, Statutes of 1956, First Extraordinary Session as amended by Chapter 1398, Statutes of 1963, and Chapter 138, Statutes of 1964, First Extraordinary Session, as such legislation is, has been and may hereafter be construed by the courts having jurisdiction thereof.

(3) The payment of all costs and expenses incurred by the City, and not included in paragraph (1) above, incident to the supervision and administration of oil and gas operations. To the extent that any non-tideland costs and expenses with respect to such supervision and administration may be initially paid from the Tideland Oil Revenue Fund, such fund shall be reimbursed therefor by appropriate journal entry on the books of the City in the manner determined by the City Manager.

(4) The payment of the City and Harbor

District subsidence costs.

(5) To finance participants in unit agreements and unit operating agreements, including any contractor or lessee of City-controlled lands qualifying as a participant therein in the manner provided by law, in such amounts, whether or not included in the official budget, as shall be determined by the City Council to be necessary in order to encourage the initiation and conduct of repressuring operations with the greatest possible speed in a subsidence area.

(6) With prior approval of a majority of all members of the City Council, monies may be expended from said fund for all other projects and purposes authorized by Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, Chapter 158, Statutes of 1935, Chapter 29, Statutes of 1956, First Extraordinary ordinary Session, and Chapter 138, Statutes of 1964, First Extraordinary Session.

(7) To the extent monies are at any time expended from other established funds, including those providing for the operation and maintenance of the Harbor Department, in payment of costs, expenses, departmental charges or any other obligation incurred, which said costs, expenses, departmental charges or obligation could properly be charged to and paid from said Tideland Oil Revenue Fund, such fund incurring such expenditure may, with the approval of the City Manager, be reimbursed therefor. All such reimbursement transfers shall be made by journal entry on the

books of the City in the manner determined by the City Manager.

Sec. 1709. TIDELAND OPERATING FUND.

(a) There is hereby created and established a special fund, to be designated as the "Tideland Operating Fund", which shall be a continuing fund not subject to transfer at the close of the fiscal year. Revenue from the following sources shall be deposited in the City Treasury to the credit of said fund:

(1) All net proceeds and revenues, exclusive of net proceeds and revenues attributable to oil and gas operations, derived from the conduct and maintenance of operations, facilities, and other improvements situated on the Long Beach tidelands outside of the Harbor District, and from operations, facilities and other improvements situated on other lands outside of the Harbor District owned by the City to the proportionate extent that such lands were acquired with, or such operations, facilities and improvements were constructed or implemented with, tideland trust monies.

(2) Interest, earnings, income or profits from the investment of money deposited to the credit of the Tideland Oil Revenue Fund.

(3) Approved reimbursement transfers from other established funds. All such reimbursement transfers shall be made by journal entry on the books of the City in the manner determined by the City Manager.

(b) The money deposited in the Tideland Operating Fund may, from time to time, be invested in accordance with the provisions of applicable legislation of the State of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State. All interest, earnings, income or profits from the investment of said money shall likewise be deposited to the credit of said fund.

(c) With prior approval of a majority of all members of the City Council, money credited to the Tideland Operating Fund may be expended for the purpose of performing services defraying operating and maintenance costs, making repairs, additions and betterments, making land acquisitions, constructing improvements, and for other related purposes, all as authorized by Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, Chapter 158, Statutes of 1935, Chapter 29, Statutes of 1956, First Extraordinary Session, and Chapter 138, Statutes of 1964, First Extraordinary Session.

(d) All money attributable to oil revenue remaining in the Tideland Oil Fund as of the effective date of this amendment, and without the necessity of any further action, shall be transferred, and paid into the Tideland Oil Revenue Fund. The balance of all other monies in said fund shall, without further action, be transferred and paid into the Tideland Operating Fund. Said Tideland Oil Fund shall thereupon cease to exist. Those portions of the money in said fund which are transferred and paid into the Tideland Oil Revenue Fund and the Tideland Operating Fund, respectively, shall be expended for purposes in accordance with the

currently adopted appropriation ordinance.

Sec. 1710. RESERVE FUND FOR SUBSIDENCE CONTINGENCIES.

There is hereby created and established a special fund, to be designated as the "Reserve Fund for Subsidence Contingencies", which shall be a continuing fund not subject to transfer at the close of the fiscal year.

There shall be deposited in the City Treasury to the credit of said fund all monies payable to the City in accordance with any provision for a "reserve for subsidence contingencies" as contained in the "Contractors' agreement", as defined and referred to in Chapter 138, Statutes of 1964, First Extraordinary Session. All of said amounts, together with interest, shall be invested in bonds issued by the State of California, or, if such bonds are unavailable, then in security of the United States.

There shall be expended from such fund, whether or not included in the official City budget, sufficient monies to indemnify and hold harmless the City, the State of California, and any and all contractors under the aforesaid Contractors' agreement from claims, judgments and costs of defense, arising from subsidence alleged to have occurred as a result of operations under said agreement.

There shall also be expended from such fund monies to pay subsidence costs or the costs of conducting repressuring operations in the event there is no oil revenue, as defined in Chapter 138 aforesaid, or the oil revenue is insufficient to pay such costs.

Monies in said fund shall not be otherwise expended, nor

shall any distribution be made therefrom, except in accordance with the provisions of Chapter 138, Statutes of 1964 First Extraordinary Session.

Sec. 1711. HARBOR REVENUE BONDS.

Notwithstanding any provision of this Charter to the contrary, any revenues which are attributable to oil and gas operations and which are subject to the jurisdiction of the Board of Harbor Commissioners or of the City, may, with the consent of a majority vote of all members of the City Council, be used to pay, or may be pledged as additional security to pay, the principal of and interest on revenue bonds of the Harbor Department.

Sec. 1712. PAYMENT OF GENERAL OBLIGATION INDEBTEDNESS.

The City Council shall annually provide, by a special tax levied upon real and personal properties, a sum sufficient to pay the principal and interest coming due upon the general obligation indebtedness of the City during the fiscal year.

Sec. 1713. LIBRARY TAX LEVY. (RESTATEMENT AND CONTINUATION BY
RENUMBERING PRE-EXISTING SECTION 262, ADOPTED APRIL
5, 1935)

The City Council shall levy and collect annually, on all taxable property in the City of Long Beach, as in other cases, a special tax sufficient to maintain the Long Beach Public Library and branch libraries, and all fees and monies received by the Public Library in connection with its operations shall be deposited to the Library Fund, including all receipts for the fiscal year

1934-1935, and this money shall be used for the purpose of supporting and maintaining the Library Department, and establishing, supporting and maintaining branch libraries and purchasing or leasing such real and personal property, books, papers, publications, furniture and fixtures, and erecting such buildings as may be necessary therefor. No indebtedness exceeding the amount provided for by the appropriation ordinance for this purpose shall be incurred in any one year. This limitation shall not be construed to prevent the incurring of indebtedness for permanent improvements, to be liquidated by the proceeds of municipal bonds issued by the City, in accordance with the provisions of this Charter and of the general laws of the State of California, for the purpose of defraying the cost of such improvements.

Sec. 1714. INSURANCE.

In order to enable the City to be self-insured, the City Council shall create a separate fund, to be known as the "Insurance Fund." The City Council shall, from time to time, appropriate to said fund a sum which shall be used to meet losses of buildings or other property through destruction or damage from any cause, and losses through liability for injuries to persons or property which the City may sustain. Such fund shall be a continuing fund, the principal and accrued interest of which shall be used only for the payment of such losses and liabilities. In a like manner, the body having control of the funds of any public utility operated by the City may annually set aside from the income derived from the public utility of which said body has control, a similar

fund to be used only to meet such losses to the property of such utility or the payment of liability through the operation of such utility.

Sec. 1715. CASH BASIS ACCOUNT.

The City Council may create a separate account in the General Purpose Fund to be known as "Cash Basis Account." Such account shall be a continuing account and not subject to transfer or included in the General Purpose Fund Unreserved Surplus balance at the close of the fiscal year. The City Manager shall have the power to transfer monies from the Cash Basis Account to other funds for the purpose of placing such fund or funds on a cash basis. It shall be the duty of the City Manager to provide that all money so transferred from the Cash Basis Account be returned thereto before the end of the fiscal year. All funds remaining in the Cash Basis Fund shall be transferred to this account. The City Council may from time to time transfer or appropriate monies to this account. Interest received on funds invested shall be paid to the General Purpose Fund.

Sec. 1716. TRANSPORTATION TAX LEVY. (RESTATEMENT AND CONTINUATION BY RENUMBERING PRE-EXISTING SECTION 240, ADOPTED NOVEMBER 6, 1962) (ADDITIONAL SECTION)

The City Council of Long Beach is hereby authorized to establish a fund to be known as the "Transportation Fund". The City Council may annually levy and collect a special tax on all taxable property in the City of Long Beach for the purposes of depositing in said fund an amount not to exceed five cents (5¢) on

each One Hundred Dollars (\$100.00) of the assessed value of all real and personal property in the City assessed for City purposes. Said fund shall be used to meet any obligations undertaken by the City to acquire, develop, operate, or maintain a public transportation system or to provide for, or to assist a nonprofit corporation to provide such a system. The provisions of this Charter relating to public utilities and franchises shall not limit the powers conferred upon the City Council by this Section.

Sec. 1717. ESTABLISHMENT OF FUNDS.

The funds of the City shall be established by ordinance except for trust and special deposit funds for the deposit of money received by the City in trust or for special purposes established by the City Manager. Disbursements may be made from such funds according to the conditions of the deposit and under rules to be issued by the City Manager and approved by the City Council.

Sec. 1718. TRANSFER BETWEEN FUNDS.

The City Council may, by resolution, authorize the transfer of money from one or more funds to another fund of the City. The resolution shall provide the return of such monies transferred before the end of the fiscal year. However, no transfer shall be made unless at the time of such transfer, there shall remain in the fund from which the transfer is made, together with all revenues anticipated to be payable into such fund during such period, sufficient money to pay therefrom all salaries and wages, claims, encumbrances and commitments payable from

such fund for the period until such monies thus transferred shall be returned thereto. No such transfer shall ever be made pursuant to the foregoing provisions from funds held by the City in trust for specific purposes and uses or from the fund or funds required to be kept and maintained by the City by the Constitution of the State of California or the general laws of said State.

Sec. 1719. GENERAL OBLIGATION BONDS.

Whenever the City Council shall determine that the public interest requires the construction, acquisition, completion, remodeling or repair of any improvement or utility, the cost of which, in addition to the other expenditures of the City, will exceed the income and revenue provided for in any one year, they may, by ordinance, submit a proposition to incur a general obligation bonded indebtedness for such purpose and proceed therein as provided in Section 18 of Article XVI, of the Constitution of this State and the genral law or laws thereof. No bond issued therefor shall be sold for less than par, nor to any other than the lowest responsible bidder, after advertising for sealed proposals therefor. Several propositions for the issue of such bonds may be submitted to one special or general municipal election.

Sec. 1720. REVENUE BONDS.

The City by procedural ordinance of the City Council or pursuant to state law, may issue revenue bonds without an election for any City purpose or purposes, and, any other provisions of this Charter notwithstanding, may make such covenants and exercise

such powers as are deemed necessary for the issuance and sale of such revenue bonds.

Sec. 1721. FINANCIAL RECORDS.

The City Manager shall establish accounting records for all cash receipts, disbursements and other financial transactions of the City which conform to generally accepted accounting principles for municipalities and the requirements of State Law and City Ordinances. The City Manager shall establish an organization consisting of such divisions, officers and personnel with duties he deems necessary to develop and maintain the financial records required by this section.

ARTICLE XVIII - CONTRACTS

Section 1800. FORM AND EXECUTION.

The City shall not be and is not bound by any contract, except as otherwise provided herein, unless the same is made in writing, by order of the City Council, and signed by the City Manager or by another officer authorized to do so by the City Manager. The approval of the form of the contract by the City Attorney shall be endorsed thereon before the same shall be signed on behalf of the City. The City Council, by ordinance duly adopted, may authorize the City Manager, or any commission or agent of the City, with the written approval of the City Manager, to bind the City without a contract in writing for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City in an amount not exceeding the limit established by ordinance of the City Council. The Board of Harbor Commissioners may authorize contracts, in writing or otherwise, without advertising for bids, for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City in an amount not exceeding the limit established by ordinance of the City Council.

Sec. 1801. BIDS FOR CONTRACTS TO BE CALLED.

All contracts, except as otherwise provided in this Charter, or by general law, for the City or any of the departments or public institutions thereof, must be made by the City Manager with the lowest responsible bidder whose bid is in regular form,

after one publication of a notice calling for bids in a newspaper of general circulation in the City. Said notice shall contain a brief description of the services, supplies, materials, equipment or labor required, the amount of bonds required of the successful bidder, and state the hour and day on which said bids will be opened. The City Council, by resolution adopted by the affirmative vote of five members of the City Council, may authorize the City Manager to enter into a contract on behalf of the City, in writing or otherwise, without advertising for bids for services, supplies, materials, equipment or labor for actual emergency work.

Sec. 1802. CONTRACTS OF OTHER GOVERNMENTAL AGENCIES.

The requirements of Sections 1800 and 1801 of this Charter shall not apply to purchases by the City and/or the Harbor Department made on behalf of the City from any governmental body, officer or agency.

The City and the Board of Harbor Commissioners may participate in joint and cooperative purchasing of services, supplies, materials, equipment and labor with other cities, counties, districts, state and federal governments or other governmental agencies, singly, jointly, or in districts or associations, by purchasing under their contracts on a voluntary and selective basis when authorized by a resolution of the City Council or Board of Harbor Commissioners, respectively. Such purchasing shall be in accordance with enabling legislation under federal and state statutes and revisions, amendments, executive orders, and rules and regulations pertaining thereto.

Sec. 1803. PREFERENCE TO BUSINESSES LOCATED IN THE CITY.

In determining the lowest responsible bidder for furnishing materials, equipment or supplies pursuant to a notice inviting bids, the City Manager shall award the contract to the lowest responsible bidder maintaining a place of business within the City limits if such bid is not more than one percent in excess of the bid filed by the lowest responsible bidder who does not maintain a place of business within the City limits.

If the award made is based upon the one percent preference, the contract shall specify that the same was entered into with a bidder maintaining a place of business within the city limits of Long Beach.

This section shall not be applicable unless payment is made solely from funds and revenues of the City, exclusive of funds and revenues derived from tidelands.

Sec. 1804. OPENING OF BIDS.

On the day and at the hour named in the notice calling for bids, the City Manager, or his designated representative, shall publicly open and declare all bids received, and at that time, or at such time as the City Manager may determine, shall accept the lowest regular responsible bid, or reject all bids and return all deposits accompanying said bids. The City Manager, at his option, may abandon all proceedings, or readvertise for bids in a like manner.

Sec. 1805. COLLUSION - VOID CONTRACTS.

If at any time it shall be found that any person, firm or corporation to whom a contract has been awarded has, in presenting

any bid or bids, colluded with any other person, firm or corporation, then the contract awarded shall, if the City so elects, be null and void, and the contractor and his bondsmen shall be liable to the City for all loss and damage which the City may suffer thereby; and the City Manager may advertise for a new contract for such labor, material or supplies.

Sec. 1806. CONTRACTS FOR WORK USUALLY PERFORMED BY CLASSIFIED CITY EMPLOYEES.

Notwithstanding any provisions of this Charter respecting the employment or use of classified civil service employees, the City Council or the Board of Harbor Commissioners, when acting with regard to matters within their authority and jurisdiction, may approve and authorize contracts with private contractors for the performance of work or services usually performed by classified civil service employees of the City, provided:

(a) The Council or Board determines by ordinance, adopted by a vote of two-thirds ($2/3$) of the members of the City Council or a vote of four-fifths ($4/5$) of the members of the Board of Harbor Commissioners, and supported by findings expressed therein, that the work or services to be contracted for can be performed by a private contractor as efficiently and effectively or at an estimated lower cost to the City than if said work or services were performed by classified civil service employees of the City; and

(b) In addition to the determinations regarding efficiency, effectiveness or estimated lower cost, said ordinance shall declare that the Council or Board has considered all other relevant

factors and has determined that the performance of said work or services by a private contractor will not be detrimental or adverse to the best interests of the citizens of the City; and

(c) No such contract shall be entered into for the performance of work or services which the provisions of this Charter or other applicable law provides are to be performed by specified officers or employees of the City, or for work or services usually performed by the public safety employees of the City's Police and Fire Departments.

ARTICLE XIX - NOMINATIONS AND ELECTIONS

Section 1900. GENERAL CLASSIFICATION OF ELECTIONS.

Municipal elections shall be classified as follows:

1. Primary nominating elections,
2. General municipal elections, and
3. Special municipal elections.

Sec. 1901. PRIMARY AND GENERAL MUNICIPAL ELECTIONS.

The primary and general municipal elections for elective officers of the City shall be held in even numbered years, on the third Tuesday in March and the second Tuesday in May, respectively, and candidates elected to office shall assume such office on the first Tuesday of June and serve until election and qualification of their successors.

Only those elected offices shall be filled which become vacant on the first Tuesday of June of that year.

Sec. 1902. SPECIAL ELECTIONS.

All other municipal elections shall be known as special municipal elections.

Sec. 1903. PROPOSITIONS.

The City Council shall have the power to submit to the electors of the City, at any election, any measure or proposition required to be submitted by the Constitution, this Charter, general law or by ordinance or resolution of the City.

Sec. 1904. NOMINATIONS.

Candidates for elective offices, except for the City Council, to be voted for at any general municipal election, shall be nominated by the City at large at the primary nominating election. Candidates for City Council, to be voted for at any general municipal election, shall be nominated by the respective district to be represented at a primary nominating election.

Sec. 1905. PROVISION FOR GENERAL MUNICIPAL ELECTION.

Candidates for elective offices, except for the City Council, shall be voted for by the electorate at large. Candidates for City Council shall be voted for by the electorate of the respective District to be represented. In the event that no candidate for nomination to an elective office receives a majority of the votes cast for all candidates for nomination to such office at any primary nominating election, the two candidates receiving the highest number of votes for any given office at the primary nominating election shall be the only candidates for such office whose names shall be printed upon the ballots to be used at the general municipal election.

Sec. 1906. MAJORITY VOTE AT PRIMARY ELECTION.

In the event that any candidate for nomination to an elective office shall receive a majority of the votes cast for all the candidates for nomination to such office at any primary nominating election, the candidate so receiving such majority of votes shall be deemed to be and declared by the City Council to be elected to such office.

Sec. 1907. RESOLUTION ORDERING ELECTION - LIST OF CANDIDATES -
PUBLICATION.

The City Council shall, by resolution, order the holding of all elections not less than thirty (30) days before the day of the primary nominating election and not less than thirty (30) days before the day of the general municipal election. The City Clerk shall enter the names of the candidates nominated in a list with the offices to be filled, and shall certify such list to the City Council as being the list of candidates nominated as required by law. The City Council shall cause said certified list of names and the offices to be filled to be published as required by the Elections Code of the State of California.

Sec. 1908. GENERAL MUNICIPAL ELECTION RESULT.

The candidate who shall receive the highest number of votes in the general municipal election for his or her respective office shall be deemed to be and declared by the City Council to be elected to such office.

Sec. 1909. PRINTING.

Notwithstanding the limitations set forth in this Charter relating to contracting, the City Clerk shall, with approval of the City Council, select a printing and consulting firm or firms by negotiation to provide the necessary ballots, cards and other printed election materials and supplies and advice necessary to assure that the election or elections be conducted in a timely manner and within the legal requirements of law. The City Clerk shall select any such printing and consulting firm or firms based upon their experience

in handling municipal elections and ability to produce the printed materials and supplies with the necessary specialized equipment to ensure timely delivery and proper quality and quantity of such election materials and supplies for such ensuing election or elections.

Sec. 1910. STATE ELECTIONS CODE.

Unless otherwise provided by this Chapter or ordinance adopted by the City Council, all municipal elections shall be held in accordance with the provisions of the Elections Code of the State of California governing municipal elections.

ARTICLE XX - INITIATIVE, REFERENDUM AND RECALL

Section 2000. POWERS RESERVED TO THE PEOPLE.

The powers of the initiative, referendum and recall of elected City officers are hereby reserved to the voters of the City. The provisions of the Elections Code of the State of California, governing the exercise of the powers of initiative and referendum in cities and governing the exercise of the power of recall of municipal officers, shall apply to the exercise of those powers in the City in so far as such provisions are not in conflict with the provisions of this Charter. However, for the purposes of the initiative and referendum, the words "next regular municipal election" set forth in said Elections Code shall mean all statewide elections and only the City's primary nominating election wherein the City Attorney, City Auditor and City Prosecutor are voted on.

Sec. 2001. PROPOSITIONS PROPOSED BY CITY COUNCIL

The City Council may on its own motion or at the request of the Board of Harbor Commissioners submit to the voters of the City any proposed ordinance, order or resolution, legislative, administrative or executive, that the City Council or such Board might adopt. If a majority of those voting on such proposed ordinance, order or resolution vote in favor of the same, it shall be deemed to be adopted upon a declaration of the result of such election by the City Council. In the case of an ordinance it shall take effect ten (10) days after that date and have the same force and effect as an ordinance adopted under the provisions of the Elections Code of the State of California.

ARTICLE XXI - RETIREMENT SYSTEM

(RESTATEMENT AND CONTINUATION BY RENUMBERING
PRE-EXISTING CHARTER SECTION 187.5, ADOPTED
NOVEMBER 8, 1949, AND SECTION 187.6, ADOPTED
NOVEMBER 2, 1954)

Section 2100. PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

The City shall participate in the State Employees' Retirement System and it shall be the duty of the City Council to enter into a contract with the Board of Administration thereof, within six (6) months after the effective date of this amendment, making persons in the employ of the City members of said System, except policemen and firemen who are now subject to the provisions of Section 187 of the Charter prior to the effective date of Section 187.1 thereof, all in accordance with the provisions of the "State Employees' Retirement Law," as said Law now exists or as the same may hereafter be amended; provided, however, that where said Law or amendments thereto makes available alternate benefits and other provisions at the election of the City Council, the City Council shall elect as to which benefits and provisions shall apply to employees who become members of the System, subject, nevertheless, to the conditions and limitations contained herein. The City Council may terminate any such contract only under authority granted by ordinance adopted by a majority vote of the qualified electors of the City of Long Beach.

Any such contract shall include the following conditions and limitations:

(a) The normal earliest age for service retirement shall be sixty-five (65) for miscellaneous employees and fifty-five (55) for firemen and policemen.

(b) Benefits on account of prior service, that is, service rendered to the City prior to the effective date of said contract, shall be allowed only as a percentage of the average salaries specified in said Law. For employees other than firemen and policemen said percentage for each year of prior service shall be one hundred percent (100%) of one-seventieth ($1/70$ th) for retirement at, or over, age sixty-five (65). For firemen and policemen, upon retirement at age fifty-five (55), or higher qualification age, said percentage for each year of prior service shall be one hundred percent (100%) of the fraction of final compensation, as defined in said Law, for each year of service rendered after said effective date as determined for firemen and policemen under said Law, for retirement at age fifty-five (55), or upon qualification for service retirement at a higher age.

If a member retires for service before attaining his normal age for service retirement, said contract shall provide that his prior service pension shall be reduced to that amount which the value of the pension as deferred to said normal age will purchase at the actual age of retirement.

(c) For the purpose of calculating contributions and benefits any amount of an employee's compensation in excess of Four Hundred Sixteen Dollars and Sixty-six cents (\$416.66) per month shall be excluded.

Anything in this Charter to the contrary notwithstanding, the City Council may, without submitting the question to a vote of the qualified electors of the City, levy and collect taxes sufficient to pay all costs and expenses, or any portion thereof, required to be paid by the City to enable it to participate in the State Employees' Retirement System and the limitation of any provision hereof, with reference to the levying and collection of municipal taxes, shall not apply to any such tax authorized by this section.

All proceedings required by said Law preliminary to such participation and taken prior to the effective date of this amendment are hereby ratified, confirmed and validated.

Sec. 2101. CHANGES IN RETIREMENT SYSTEM.

The City shall have the power and the City Council may do and perform any and all acts and take such action as may be necessary to place those employees of the City who now are or hereafter may become members of a coverage group included within the California State Employees' Retirement System under the Old Age and Survivors Insurance provisions of the Social Security Act; to terminate any existing contracts with the State system covering such employees co-incidentally with substitute benefits of equal or greater value becoming effective; and also to provide supplementary benefits for such employees either by contract with the California State Employees' Retirement System supplementing such as are provided by the Old Age and Survivors provisions of the Social Security Act or, in the alternative, to create a City established retirement system which will

provide such supplementary benefits for such employees; provided any such system so created shall be upon an actuarially sound basis and, provided further, that at an election held for the purpose among all employees who shall then be included as members of any such coverage group under the California State Employees' Retirement System, the members of which it is proposed to include within either or both such systems, a number thereof shall vote in favor of such plan sufficient to satisfy the requirements of any United States statute providing a method of holding such an election, or in the event there shall be no such statute, then in accordance with any applicable California statute, if any there be, and otherwise as provided by ordinance.

ARTICLE XXII - MISCELLANEOUS

Section 2200. RETENTION OF RECORDS.

Notwithstanding any express or implied records retention provisions of this Charter to the contrary, officers and employees of the City are not required to keep, maintain or preserve any City records or writings of any kind or character in excess of the period prescribed by the general law of the State of California.

Sec. 2201. LIBERAL CONSTRUCTION

If any section, clause, word or provision of this Charter shall be held invalid or unconstitutional, the other sections, clauses, words or provisions thereof shall not be affected thereby. All the provisions of this Charter shall be liberally construed.

APPENDIX TO REVISED
LONG BEACH CITY CHARTER

The existing City Charter provides that City Council members are to be nominated and elected solely by the voters of their respective districts. Any City Council candidate who receives a majority of all votes cast for all candidates on the ballot for that district at the primary election is declared elected without the necessity of running for the office in the general election. The City Charter as revised by the Blue Ribbon Advisory Committee made no change in the existing district-only election procedure.

Should the City Council desire to place before the electorate a return to the former procedure of nominating City Council candidates by district at the primary election and electing the City Council members at the City-wide general election, Sections 1905, 1906, and 1908 of the revised City Charter would have to be changed to read as follows:

Sec. 1905. GENERAL MUNICIPAL ELECTION.

The two candidates receiving the highest number of votes for any given office at the primary nominating election shall be the only candidates for such office whose names shall be printed upon the ballots to be used at the general municipal election.

Sec. 1906. MAJORITY VOTE AT PRIMARY ELECTION - EXCEPT
COUNCIL MEMBERS.

In the event that any candidate for nomination to an elective office, except the office of the City Council, shall receive a majority of the votes cast for all the candidates for nomination to such office at any primary nominating election, the candidate so receiving such majority of votes shall be deemed to be and declared by the City Council to be elected to such office

Sec. 1908. GENERAL MUNICIPAL ELECTION RESULT,

The candidate who shall receive the highest number of votes in the general municipal election for his respective office shall be deemed to be and declared by the City Council to be elected to such office. The entire electorate of the City shall be entitled to vote at the general municipal election for one candidate for office of the City Council from each district where a vacancy will exist on the first Tuesday of June of that year. Only one member of the City Council shall be elected from each district.

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